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OFFICIAL REPORT
(HANSARD)

Tuesday, June 3, 2003

—
**THE HONOURABLE DAN HAYS
SPEAKER**



This issue contains the latest listing of Senators, Officers of the Senate, the Ministry, and Senators serving on Standing, Special and Joint Committees.

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THE SENATE

Tuesday, June 3, 2003

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

MR. PETER MACKAY
THE RIGHT HONOURABLE JOE CLARK, P.C.

TRIBUTES

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I am sure that all colleagues in this chamber will join with me in congratulating Peter MacKay on his becoming Leader of the Progressive Conservative Party and to wish him well in his new and challenging responsibilities. There is no question that his parliamentary experience, youthful energy and innovative ideas will benefit not only his party but all Canadians, whatever their political leanings.

Also, honourable senators, last Thursday evening, at the PC leadership convention, a moving and well-deserved tribute was paid to the Right Honourable Joe Clark in recognition of over 30 years as an active participant in the public life of our country. I need not add to what was said with such feeling and emotion that evening, but I do want to associate my caucus colleagues and myself with the sentiments expressed on that occasion. Few Canadians today are as deserving of such respect and gratitude as is Joe Clark, and all of us associated with him will always feel particularly privileged to have had him as our leader.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I should like to join with the Leader of the Opposition in welcoming Peter MacKay as leader of their party and to wish him the best, but not too much success, as he would probably understand coming from this side of the chamber.

I think it is only right that we fulsomely express our appreciation for the leadership roles that new leaders take on in the legislatures and in the Parliament of this country. That recognition, of course, would lead me to join with the honourable senator also, in his tribute to the Right Honourable Joe Clark.

Mr. Clark, in serving this country for many decades, deserves the appreciation of all of us for his dedication to the political process, his belief in and understanding of parliamentary tradition, and the respect that he deserves for years of service to all of us. When a politician serves, he or she not only serves the party that they represent; they serve all of the individuals for whom they have been elected. Mr. Clark, on a number of

occasions, has shown true leadership, true dedication, but, more important and above all, appreciation of the parliamentary system.

THE HONOURABLE MARISA FERRETTI BARTH

CONGRATULATIONS ON RECEIVING ORDER OF MERIT OF REPUBLIC OF ITALY

Hon. Dan Hays: Honourable senators, over the weekend, I had the pleasure of representing the Senate, along with Senator Ferretti Barth and our colleague from the other place, Massimo Pacetti, Member of Parliament for Saint-Léonard—Saint-Michel, during the celebrations of Italy's National Day at the Leonardo da Vinci Centre in Montreal, or, more precisely, in Saint-Léonard. At that time, our colleague Senator Ferretti Barth received a prestigious honour from the Ambassador of Italy, His Excellency Marco Colombo, in recognition of her devotion and service to the Italian community.

[Translation]

Ms. Ferretti Barth has been made Grand Officer of the Order of Merit of the Republic of Italy, the highest distinction that country can award. My sincere congratulations to Senator Ferretti Barth. I am very pleased that Italy has acknowledged in this way her exceptional contribution to public life, the Italian community, and relations between our two countries.

THE LATE PRINCE SADRUDDIN AGA KHAN

TRIBUTE

Hon. Mobina S. B. Jaffer: Honourable senators, I rise to pay tribute to Prince Sadruddin Aga Khan, a passionate humanist and great philanthropist, who passed away recently. He was the uncle of the present Aga Khan, Highness Prince Karim Aga Khan, forty-ninth hereditary Imam of the Shia Ismaili Moslems.

Prince Sadruddin Aga Khan was one of those who served as United Nations High Commissioner for Refugees.

During that time, he catalysed United Nations' efforts in response to several major humanitarian crises. When Pakistan was created at the end of a difficult civil war, he directed UN efforts to take charge of the ten million refugees this conflict created. He helped thousands of Vietnamese refugees who had left their communist country find new homes. In the early 1970s, he played a critical role in assisting the Asians expelled from Uganda by dictator Idi Amin.

My family and myself benefited directly from his assistance. We found asylum in Canada, thanks, in large part, to his sustained efforts. He continued to advise us for a number of years.

• (1410)

While preferring to remain out of the limelight, Prince Sadruddin received many honours. His exceptional humanitarian efforts were frequently recognized. He was made Commandant of the Légion d'honneur by France, Commander of the Golden Ark by the Netherlands, and more recently Knight Commander of the Most Excellent Order of the British Empire, for services rendered to humanitarian and artistic causes.

With his passing, the world has lost a great philanthropist, one who fought unceasingly to lessen the suffering of millions, regardless of caste, skin colour or religion. A highly devout Moslem, he was always prepared to do his part to improve the lot of others, within the true spirit of Islam.

Prince Sadruddin Aga Khan worked in the shadows to improve the lot of the world's most vulnerable people. His death leaves a huge void. He will be greatly missed.

[English]

FIGHT AGAINST SEVERE ACUTE RESPIRATORY SYNDROME

TRIBUTE TO HEALTH CARE WORKERS

Hon. Yves Morin: Honourable senators, I rise today to pay tribute to the courageous health care workers involved in the fight against SARS in Toronto. They are truly our modern Canadian heroes.

Throughout the outbreak, they have exemplified the caring professions, fulfilling their obligations of caring for the sick at the risk of their own health and at the risk of their own lives. In fact, according to an article published in the *Canada Communicable Disease Report*, 73 of the 144 suspected and probable cases of SARS during the first outbreak were health care workers. *The Globe and Mail* has reported that 16 of the 38 cases in the most recent cluster have been health care workers. We know, for instance, that two general practitioners in Scarborough have been on respirators for six weeks and their condition remains critical.

Were it only their own health, that would be bad enough, but affected doctors, nurses and other health care professionals must worry about whether they have transmitted the disease to their families. We know, in fact, that this has occurred. As a result of this, many health care workers must endure separation from their families and they cannot respond with a parent's best instinct, a reassuring hug, when their children are afraid or scared of what is happening.

Throughout, they continue to carry on their work of caring for the ill and comforting the dying, encumbered as they are with face masks, gloves and gowns.

Honourable senators, I know you will join me in saluting the courage of these valiant health care workers, who are examples of true heroism.

[Translation]

DR. CLAUDETTE TARDIF

TRIBUTE

Hon. Rose-Marie Losier-Cool: Honourable senators, on Wednesday, May 28, I had the good fortune of attending a banquet in honour of Dr. Claudette Tardif, Dean of the University of Alberta's Faculté Saint-Jean. This evening was organized to pay tribute to Dr. Tardif and to allow the Faculté Saint-Jean to launch a scholarship named after Claudette Tardif for leadership and academic excellence, in recognition of a woman who has contributed selflessly to the field of French education in Alberta.

Claudette Tardif is finishing a fruitful and successful term as Dean of the Faculté Saint-Jean. Born of Ukrainian heritage, Claudette fell in love, at a young age, with la francophonie and with a francophone, her husband, Denis.

She has devoted her life to the Faculté Saint-Jean. She began as a student, and then became a lecturer, professor, and Vice Dean. On June 30, 2003, she will finish her second term as Dean of the Faculté.

[English]

The Honourable Ralph Klein, Premier of Alberta, made the following statement:

Dr. Claudette Tardif has led the Faculty of St. Jean to outstanding achievements in learning. A school that boasts French language degree programs in arts, science, business, and education, and the only bilingual Bachelor of Commerce program in Canada, the Faculty of St. Jean's success is that much richer today because of the involvement of Dr. Tardif.

[Translation]

In addition to her university involvement, Claudette Tardif has sat on a number of boards for organizations that promote French in Alberta and educate Canadians and the whole world about the franco-Albertan reality.

Among her many awards, I would like to highlight: first, L'Ordre du Conseil de la vie française en Amérique in 2003;

[English]

— second, the Queen's Golden Jubilee Award; and, third, the Edmonton ITV Global Television Woman of Vision Award, 2000. That is just to mention some of them.

I was impressed by the Alberta Lieutenant Governor, the Honourable Lois Hole, who gave warm thanks to Claudette Tardif. She stressed the importance of bilingualism in Canada and in all of its provinces.

Thanks to professionals and leaders such as Claudette Tardif, Canadians realize that bilingualism gives an added value to their community life.

[Translation]

The warm applause from the more than 400 people attending demonstrated their appreciation for Dr. Tardif, her accomplishments and her role as a leader in education for francophones in Edmonton, Alberta and Canada. With a very strong speech, the Honourable Lois E. Hole reiterated her support for the culture and language of both of Canada's founding peoples.

I would like to thank Dr. Tardif for her commitment to promoting Canada's francophonie and I wish her the best of luck in her future endeavours.

[English]

THE RIGHT HONOURABLE JOE CLARK, P.C.

TRIBUTE

Hon. Jeremiah S. Grafstein: Honourable senators, I rise to pay tribute to the Right Honourable Joe Clark. He and I entered party life at the same time, in the early 1960s. I have watched him rise from a ministerial assistant to a member of Parliament, to the leader of his party, to the Prime Minister, and then on to a very distinguished career as Minister of External Affairs.

He has always been a formidable adversary, an energetic party activist, and an outstanding and potent debater in the House of Commons — in summary, a true man of the Commons, following in the footsteps of John Diefenbaker, who was also a great lover of the Commons.

I have only one quibble, and it relates to one small aspect of the grand tribute paid to him by the Right Honourable Brian Mulroney, when he said that Mr. Clark was the second best foreign minister of this century. I would beg to respectfully quibble with him. I believe that the first and most outstanding foreign minister of this century was the Right Honourable Louis St. Laurent, closely followed by the Right Honourable Lester B. Pearson. Where Mr. Clark's rating is after that, I leave to history.

[Translation]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw to your attention the presence, in our gallery, of Raymond Dupont, former member of Parliament for Sainte-Marie, later member for Chambly, and Marcel-Claude Roy, former member of Parliament for Laval.

[Senator Losier-Cool]

This morning, they were awarded the Queen's Jubilee Medal. They are the guests of Senator Prud'homme. On behalf of all the honourable senators, I welcome you to the Senate of Canada.

[English]

I wish to draw the attention of honourable senators to the presence, in the gallery, of Mr. Stephen Graham, an Officer of the Northern Ireland Assembly. He is midway through an eight-week placement with the Senate Committees Directorate, where he is working on a number of projects for us.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

[Translation]

ROUTINE PROCEEDINGS

INFORMATION COMMISSIONER

2002 ANNUAL REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table the report of the Information Commissioner for the period ending March 31, 2003, pursuant to the Access to Information Act.

[English]

NATIONAL ACADIAN DAY BILL

REPORT OF COMMITTEE

Hon. George J. Furey, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Tuesday, June 3, 2003

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

FOURTH REPORT

Your Committee, to which was referred Bill S-5, An Act respecting a National Acadian Day, has, in obedience to the Order of Reference of Tuesday, October 8, 2002, examined the said Bill and now reports the same with the following amendments:

1. Page 1, in the Preamble:

(a) Replace line 1 with the following:

"WHEREAS Acadians, in view of their origin, history and development, constitute the first permanent settlement from France in Canada and now reside in most of the provinces and territories of Canada;

WHEREAS the Acadian people have"; and

(b) Add after line 10 the following:

"WHEREAS it is in the interest of all Canadians to be able to share in the rich historical and cultural heritage of Acadians and to become more familiar with all its aspects, both traditional and contemporary;"

2. *Page 1, clause 2:* Replace line 20 with the following:

"2. In this Act, "National" means that it relates to all Canadians throughout Canada.

3. Throughout Canada, in each and every".

Respectfully submitted,

GEORGE J. FUREY
Chair

• (1420)

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Furey, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

LEGAL AND CONSTITUTIONAL AFFAIRS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY INCLUDING IN LEGISLATION NON-DEROGATION CLAUSES RELATING TO ABORIGINAL TREATY RIGHTS

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I give notice that at the next meeting of the Senate, I shall move:

That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to examine and report on the implications of including, in legislation, non-derogation clauses relating to existing Aboriginal and treaty rights of the Aboriginal peoples of Canada under section 35 of the Constitution Act, 1982, and that the committee present its report no later than December 31, 2003.

MEMBERS OF PARLIAMENT RETIRING ALLOWANCES ACT PARLIAMENT OF CANADA ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-39, to amend the Members of Parliament Retiring Allowances Act and the Parliament of Canada Act.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Robichaud, bill placed on the Orders of the Day for second reading two days hence.

CANADIAN ASSOCIATION OF INSURANCE AND FINANCIAL ADVISORS CANADIAN ASSOCIATION OF FINANCIAL PLANNERS

PRIVATE BILL TO AMEND ACT OF INCORPORATION— FIRST READING

Hon. Michael Kirby presented Bill S-21, to amalgamate the Canadian Association of Insurance and Financial Advisors and The Canadian Association of Financial Planners.

Bill read first time.

The Hon. the Speaker: When shall this bill be read the second time?

On motion of Senator Kirby, bill placed on the Orders of the Day for consideration two days hence.

BANKING, TRADE AND COMMERCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF DOMESTIC AND INTERNATIONAL FINANCIAL SYSTEM

Hon. E. Leo Kolber: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the date for the presentation by the Standing Senate Committee on Banking, Trade and Commerce of the final report on its study on the present state of the domestic and international financial system, which was authorized by the Senate on October 23, 2002, be extended to Thursday, March 31, 2004.

THE SENATE

NOTICE OF MOTION TO CONGRATULATE LUNENBURG, NOVA SCOTIA ON TWO HUNDRED FIFTIETH ANNIVERSARY

Hon. Wilfred P. Moore: Honourable senators, I give notice that at Thursday next, I will move:

That the Senate of Canada extend its congratulations and best wishes to the Town of Lunenburg, Nova Scotia, its Mayor, Councillors and Townsfolk on the 250th anniversary of its founding, which is to be celebrated on Saturday, June 7, 2003.

[Translation]

OFFICIAL LANGUAGES

NOTION OF MOTION TO ADOPT THIRD REPORT OF COMMITTEE

Hon. Rose-Marie Losier-Cool: Honourable senators, I give notice that tomorrow, Wednesday, June 4, 2003, I shall move:

That, in accordance with paragraph 58(1)(g) of the *Rules*, the Third Report of the Standing Senate Committee on Official Languages, tabled in the Senate this past May 28, be adopted.

[English]

CHALLENGES AND OPPORTUNITIES FACING SMALL AIRPORTS IN ATLANTIC CANADA

NOTICE OF INQUIRY

Hon. Elizabeth Hubley: Honourable senators, I give notice that on Wednesday, June 25, I will call the attention of the Senate to the challenges and opportunities facing smaller airports in Atlantic Canada.

QUESTION PERIOD

HEALTH

SEVERE ACUTE RESPIRATORY SYNDROME— REQUEST FOR PUBLIC INQUIRY

Hon. Brenda M. Robertson: Honourable senators, my question is for the Leader of the Government in the Senate. Over the weekend, the Registered Nurses Association of Ontario called for a public inquiry into the way the SARS crisis was handled in Toronto. It called for a full and independent investigation, similar to the one conducted for the Walkerton crisis. Currently, separate federal and provincial reviews are planned, but not a public inquiry. Could the government leader in the Senate tell us if the federal government is supportive of the nurses' association's call for a public inquiry?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, that decision will have to be made by the Government of Ontario. I do not think it would be appropriate for the Government of Canada to comment on that.

CREATION OF NATIONAL DISEASE CONTROL AGENCY

Hon. Brenda M. Robertson: Honourable senators, last Friday, Minister of Health Anne McLellan visited the U.S. Center for Disease Control in Atlanta in an effort to see if such an institution

could be established in Canada. Afterwards, the minister said that the federal government would consult with public health officials in the provinces before any action is taken on the matter.

As the provinces are primarily responsible for health care, could the government leader in the Senate tell us if any provincial or territorial health officials were invited to tour the CDC with the minister and, if not, why not?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the honourable Minister of Health made a visit to the CDC at the invitation of the CDC, to examine the site. Clearly, it is premature to indicate whether we would put such a system in place in Canada. It has been made clear, from the statements that the honourable Minister of Health has made, that any such institution could only be established through collaboration with the provinces and with public health officials involved as well. Therefore, I would assume, if such a decision were to be made, it would only be made after the provincial authorities had taken a thorough look at the CDC.

Senator Robertson: In other words, honourable senators, what the honourable minister is saying is that the federal government does not have a leadership role in this issue. A centre of excellence such as the CDC could certainly be supported by the federal government and would most probably meet with the approval of the provinces. However, I find it strange that, if, as was stated, the federal government officials wish to involve the provincial ministers of health and the provincial premiers, no invitation was extended to a provincial or territorial representative to attend with the federal minister in Atlanta.

• (1430)

Senator Carstairs: I do not think it is passing strange, honourable senators. The honourable minister decided that she wanted to look at this before she began discussions with her counterparts and before such a decision was made because health is primarily a provincial responsibility. The provincial authorities, I think, would want to have a look at the CDC facility. The Minister of Health wanted to learn first-hand if such a centre might have application to Canada, which she has indicated it may have. Because she understands fully the constitutional implications of that decision, she will begin discussions with her counterparts.

HERITAGE

WAR MUSEUM—OVERRUN OF CONSTRUCTION COSTS

Hon. Michael A. Meighen: Honourable senators, my question is also to the Leader of the Government in the Senate. The Canadian War Museum, originally budgeted at \$105 million, is now expected to cost \$135 million — an overrun of 28 per cent. The federal government will have to provide the extra funds. The reasons given in the media for the budget increases have included the rising costs of cement and other construction materials, changes in the museum's design, sewer and water problems, and contamination of the soil at the proposed site. Could the leader provide the Senate with a breakdown of the cost overruns for the museum?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, if an exact breakdown is available, and I presume it is, I would be delighted to provide it to the honourable senator. My understanding is that the majority of the cost actually came about due to the contamination of the site, which we knew beforehand would be substantial but apparently was even more substantial, as well as design costs. Other factors were much less important in terms of the overall cost.

Senator Meighen: As previously mentioned, the soil at LeBreton Flats, the site of the museum, is contaminated. In addition to the War Museum, there are plans for a housing development of some 2,500 units in the area. Consequently, it is vitally important that the nature of the contamination is known and dealt with. Could the Leader of the Government in the Senate provide us with the findings of the environmental investigation conducted on the site?

Senator Carstairs: Honourable senators, as the honourable senator has identified, an investigation is critical not just for the museum site, although it would be critical enough if it was just for the museum site, but it is also critical for the housing site. That is why such care has been taken, ensuring that the site is no longer contaminated and that all contaminated materials have been duly removed. If there is such an environmental study, and I would assume there is, then I will obtain that information for the honourable senator.

HEALTH

SEVERE ACUTE RESPIRATORY SYNDROME— INVESTIGATION OF CARRIERS OF SYMPTOMS

Hon. Marjory LeBreton: Honourable senators, my question is for the Leader of the Government in the Senate. It deals with the SARS outbreak in the Toronto area.

On Sunday, it was reported that five deaths last week at Centenary Hospital in northeast Toronto are being investigated as possible SARS cases. Public health officials have said, however, that they do not believe that all these deaths will turn out to be related to SARS. Are all deaths involving pneumonia-like symptoms in Toronto-area hospitals currently being investigated as possible SARS cases?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, my understanding is that if the symptoms are such that they would reflect not just the pneumonia but other symptoms relevant to SARS, then they are investigated as possible SARS deaths. As the honourable senator knows, that investigation requires autopsies to be done, and, as of yesterday, they were not completed. They may be completed now, and we may know whether one of the cases or five or any number in between were as a result of SARS.

SEVERE ACUTE RESPIRATORY SYNDROME— MONITORING OF QUARANTINE IMPOSITIONS

Hon. Marjory LeBreton: Honourable senators, there were also reports, on the weekend, that students who had been asked to quarantine themselves due to possible SARS exposure at school were not staying in isolation. These students are now apparently

cooperating with public health authorities, but this incident does show the problems of monitoring a voluntary quarantine. Can the Leader of the Government in the Senate tell us whether there are any changes in how the quarantine is being monitored, as opposed to the initial quarantines imposed two months ago?

Hon. Sharon Carstairs (Leader of the Government): As I think the honourable senator is aware, one of the things that was done with the initial quarantine and has continued with the second is that contact is made with that individual in their residence at least once a day and sometimes more often if there is suspicion that the person may not be maintaining quarantine. If they do not maintain quarantine within their own home, they can be removed and put in an isolation unit where they are forced to obey the quarantine. Those rules have not changed from the first outbreak to the second.

FINANCE

SUPERINTENDENT OF FINANCIAL INSTITUTIONS— VOYAGEUR COLONIAL PENSION PLAN

Hon. David Tkachuk: Honourable senators, we discussed the issue of federal pensions last week, or was it the week before? Time goes too fast. The federal government supervises more than 1,000 pension and retirement income plans, primarily for workers in federally regulated industries such as banking, broadcasting and transportation. The plans range from that of the Adams Lake Indian Band to the Yukon Hospital Corporation. One of these plans is Voyageur Colonial, an inter-provincial bus company formerly owned by Canada Steamship Lines.

Serious allegations have been made regarding the management of Voyageur's pension plan in the period leading up to its sale by CSL to Greyhound. Employees will lose up to 46 per cent of the benefits that they had been promised. The plan trustee made bad investments in real estate, which hurt the plan's solvency. Yet, in spite of the plan's precarious financial state, several employees were given generous early retirement packages in the months leading up to the company's sale to Greyhound.

Employees say that prior to Voyageur's sale, they expressed concern about the state of their plan to the Superintendent of Financial Institutions, who did nothing. My question is simple: Was the refusal of the Superintendent of Financial Institutions to get involved part of a normal pattern, or was this a special case for a company owned by the former Minister of Finance?

Hon. Sharon Carstairs (Leader of the Government): As the honourable senator knows, a special case would not be made for the Honourable Minister of Finance.

Senator Tkachuk: The allegations surrounding the Voyageur pension plan are serious. Could the leader please report back to the Senate as to why the Superintendent of Financial Institutions refused to get involved in the Voyageur file in the months leading up to the sale to Greyhound?

Senator Carstairs: Before doing that, honourable senators, I would have to confirm that the matter was brought to the attention of the Superintendent of Financial Institutions and, if it was, why it was not followed-up, or whether it was, in fact, followed-up and no case was made. On behalf of the honourable senator, I will inquire of the superintendent to learn if there is any information that I can share.

SUPERINTENDENT OF FINANCIAL INSTITUTIONS— MONITORING OF PENSION PLANS ON WATCH LIST

Hon. David Tkachuk: Honourable senators, I have another question relating to the question from a few weeks ago. Some 75 federally regulated pension plans are currently on the government's watch list. These are plans that may not be able to meet all of their obligations. Is the Superintendent of Financial Institutions actively intervening to prevent employers from taking measures that will further hurt the ability of these plans to meet their obligations, and if not, why will the superintendent not intervene?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the very fact that the pensions are on a watch list responds to the honourable senator's question. Obviously, they have come to the attention of the superintendent and are being monitored.

NATIONAL DEFENCE

DEPLOYMENT OF TROOPS TO CONGO AND MIDDLE EAST—COMMENTS OF PRIME MINISTER

Hon. J. Michael Forrestall: Honourable senators, I have a question for the Leader of the Government in the Senate, although she may want to tell us about the most recent emergency landing of a Sea King at Shearwater, just yesterday.

Over the weekend, the Prime Minister stated that Canada would send military forces to both Congo and the Middle East. Can the leader tell the chamber which units the Prime Minister is sending to the Middle East and just how large a force he has offered?

Hon. Sharon Carstairs (Leader of the Government): As the honourable senator knows, the government was asked for a commitment, but no specific request was made as to equipment or troops. Therefore, until the details of such a force to the Middle East are made available, I will not have the information the honourable senator requests.

The contribution to Congo is in the order of 50 troops and some pieces of equipment. There are, of course, large cargo planes.

• (1440)

Senator Forrestall: Honourable senators, the incoming and the outgoing commanders of the Canadian army have warned the country that, with our current resources, we cannot fulfil further missions without negative consequences.

Will the Leader of the Government in the Senate give us her assurance that no army units will be sent to the Middle East —

and I had thought to include Congo if there were to be many more than 50 — until such time as the current problems referred to by the two commanders have been overcome?

Senator Carstairs: As the honourable senator is well aware, 2,700 of our men and women in uniform are deployed abroad. We have made a huge commitment to deploy another 1,800 to Afghanistan. As the generals stated, that is truly pushing our numbers. Therefore, any contribution made to the Middle East would be of a specialist nature, such as deployment of the kind of troops that we sent to Congo.

TRANSPORTATION OF TROOPS VIA NATO MAINTENANCE AND SUPPLY AGENCY AIRCRAFT

Hon. J. Michael Forrestall: My final question is for the Leader of the Government in the Senate. If, indeed, we do send troops to the Middle East this summer, would the Leader of the Government in the Senate assure the chamber that no Canadian Forces personnel will be transported aboard the NATO Maintenance and Supply Agency aircraft until an investigation of the fatal crash that killed a large number of Spanish troops is completed and the report released? Spain has stayed all contracts with NAMS to transport troops to Afghanistan due to the fatal air crash related to the particular type of aircraft deployed. Those aircraft are extremely dangerous.

Hon. Sharon Carstairs (Leader of the Government): Unlike the honourable senator, I cannot comment on the dangerous nature of the aircraft, but I can say that Canadian troops will not be sent to a place where they could be in any danger whatsoever. I will bring representation to cabinet to address the honourable senator's concern about that aircraft.

INTERNATIONAL TRADE

UNITED STATES—RENEWAL OF SOFTWOOD LUMBER AGREEMENT—QUOTA SYSTEM

Hon. Gerry St. Germain: Honourable senators, I have a question for the Leader of the Government in the Senate in respect of the softwood lumber issue. My office received some information that suggests that the government has made an offer to the United States in the form of a quota system.

Could the honourable senator give us an update on the quota system, which would truly affect the small lumber operators in British Columbia? Concerned business people have phoned to ask me about the federal government's position on promoting a quota system.

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for his question. A proposal was developed by the federal government based on extensive discussions with the softwood lumber industry and was presented to the United States last Friday. Discussions are currently taking place between the two nations.

I can also state that, although there is some information to the contrary, the Maritimes will be allowed to ship 100 per cent of their historic shipment levels free of any export tax.

Senator St. Germain: Honourable senators, it is of great concern that facilities now being built may be required to operate under a quota system. Apparently, quota is issued on the basis of historical shipments. In all fairness, how will companies currently operating without a quota be treated in the event that both American and Canadian negotiators accept a quota scenario?

Honourable senators, my question is not intended in any way to be confrontational; it is simply a straightforward question about a system that currently has no quota and the fact that facilities are being developed — planer mills and others — that could be required to operate under a quota system. If a quota system were implemented, how would these newer facilities be dealt with, given that they have no historical shipping records? How would this issue be reconciled?

Senator Carstairs: As the honourable senator has indicated, there is no quota system currently. There is a completely level playing field, and that will be maintained.

Hon. Jack Austin: Honourable senators, I have a supplementary question. Is the Leader of the Government in the Senate aware that the provincial government, in the person of Minister de Jong, has said that British Columbia will not accept an interim quota system?

Senator Carstairs: Honourable senators, I am unaware that Minister de Jong has made such a statement, but I am aware that a Canadian position was worked out with the Department of Industry and placed before the American government.

Senator St. Germain: The Leader of the Government in the Senate makes reference to the fact that the playing field is level. This simply does not clarify the issue. If quotas were traditionally issued on historical shipments to the United States and an organization is starting up that has no historical records of shipments, how can the playing field be level? Is the honourable senator saying that these people would be allocated a certain amount of quota, if and when the quota system is implemented?

Senator Carstairs: Honourable senators, I understand that the status quo, that which is currently in existence, will be the basis for any quota and not what existed in the past.

FOREIGN AFFAIRS

UNITED STATES—PARTICIPATION IN MISSILE DEFENCE SYSTEM—EFFECT ON POLICY AGAINST WEAPONIZATION OF SPACE

Hon. Douglas Roche: Honourable senators, since the onset of talks with the United States concerning Canadian participation in a missile defence program, the government has stated that the government's opposition to the weaponization of space would "remain constant." The Prime Minister, when speaking in Europe, added that Canada would not join the missile defence program if there were any possibility that it would lead to the placement of weapons in space. Before the government signs on to

the program, could it obtain a guarantee that the missile defence program will not involve the weaponization of space?

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for his question. The statement of the Prime Minister was unequivocal: The Canadian government is not in agreement with weapons in space, and that is their bottom line entering into any negotiation. As the honourable senator is aware, Canada cannot control what America may do on its own, but we can control the aspects of our participation. We have indicated that we will not support weaponization in space.

UNITED STATES— PARTICIPATION IN MISSILE DEFENCE SYSTEM

Hon. Douglas Roche: I would draw the attention of the honourable leader and senators to the documentation contained within the missile defence agency that clearly shows an interlocking between the ground-based interceptors, which are being built, and the space-based interceptors, which are in research and are funded.

I turn now to the NORAD side of my question. Minister of Defence John McCallum stated that NORAD represents the logical organization to lodge ballistic missile defence. Could the Leader of the Government in the Senate tell the house what the financial cost of enlarging NORAD to run missile defence will be? More particularly, how much will Canada have to spend on this system, which has not been proven to work? Money spent on such a system could further deprive the Canadian Armed Forces of their necessary equipment.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, those questions are extraordinarily premature. We have decided to enter into talks, which are generally not costly, in and of themselves. We have certainly not gone beyond the talking stage. As those talks unfold, whether we agree to be part of this system or whether we choose not to be part of this system, implementation would have to take place before costs would be incurred.

• (1450)

Senator Roche: When I first raised questions on this subject about two years ago, the minister told me I was being premature because there were not even any discussions with the Government of the United States. It is precisely because those discussions and formal talks have begun that this question is not premature.

Senator Carstairs: Honourable senators, the question is premature because all that is going on is talk. Sometimes we use the expression "talk is cheap." In this case, hopefully, the talk is even cheaper in the sense that all it will be is a discussion with the United States about their potential missile defence system, with our commitment that we will not support weaponization in space.

It is also our concern — and this is critical — that if the Americans are to proceed with this system, then what is the future of the NORAD relationship between Canada and the United States?

[Translation]

[English]

DELAYED ANSWER TO ORAL QUESTION

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table, in this House, a delayed response to an oral question raised by Senator Andreychuk in the Senate on February 27, 2003, concerning the Commonwealth and efforts to accept return of Zimbabwe.

FOREIGN AFFAIRS

THE COMMONWEALTH— EFFORTS TO ACCEPT RETURN OF ZIMBABWE

(Response to question raised by Hon. A. Raynell Andreychuk on February 27, 2003.)

At the last Commonwealth Heads of Government meeting in Coolumb, Australia, March 2002, Commonwealth leaders expressed concern about the situation in Zimbabwe and mandated a troika, consisting of the President of South Africa, Prime Minister of Australia, and President of Nigeria (past, current and next Chairpersons of the Commonwealth) to “determine appropriate Commonwealth action on Zimbabwe, in the event of an adverse report from the Commonwealth Observer Group to the Zimbabwe Presidential Election, in accordance with the Harare Commonwealth Declaration and the Millbrook Commonwealth Action Programme.

After the election, the troika met and in light of the critical report of the Commonwealth observer group, recommended that Zimbabwe be suspended from the Councils of the Commonwealth for one year, after which the situation would be reviewed. Canada welcomed the decision of the troika, and even before suspension was announced, Prime Minister Chrétien announced a set of actions Canada would take to reflect our opinion of the flawed election; namely, the withdrawal of all funding to the Zimbabwean Government and a ban on entry to Canada by members of the Zimbabwean Government.

Canada has continued to monitor the situation in Zimbabwe closely, and does not believe that there has been sufficient change in adherence to the Harare Principles to warrant the lifting of Zimbabwe's suspension from the Councils of the Commonwealth. This view has been conveyed to other Commonwealth leaders and representatives in bilateral and multilateral fora. Canada therefore welcomed the announcement by the Commonwealth Secretary-General on March 16 that the suspension of Zimbabwe from the Councils of the Commonwealth will be kept in place until the Heads of Government meeting in December 2003. Canada will continue to work with other Commonwealth members and the Commonwealth as an organization to encourage positive change in Zimbabwe.

QUESTIONS ON THE ORDER PAPER

REQUEST FOR ANSWERS

Hon. J. Michael Forrestall: Honourable senators, I have a question with respect to questions on the Order Paper. We are into June. It is not outside the realm of possibility that we may not be back here until sometime in the fall. I am wondering if the government has any intention whatsoever to respond to questions that I have on the Order Paper, questions which have been on the Order Paper since October 2, 2002. Is there any possibility of them being answered?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, there is a very strong possibility, given the fact that my office reports to me that very few questions, both on the Order Paper and those which I have taken as notice, have not received responses. However, I will instruct my staff to make inquiries to see if we cannot speed up the process for Senator Forrestall.

Senator Lynch-Staunton: And for Senator Lynch-Staunton.

Senator Forrestall: All 43 of them?

Senator Carstairs: As a matter of fact, I think Senator Kenny managed to put on the Order Paper even more questions than the honourable senator opposite. We are well through the responses to his questions. Quite frankly, I hope that the honourable senator's questions will receive the same amount of attention.

Senator Forrestall: Mine have been on the Order Paper longer than his.

Senator Carstairs: Senator Lynch-Staunton has also indicated he has questions awaiting responses. I will discuss the matter with my staff to determine where the answers are.

ORDERS OF THE DAY

NATIONAL ANTHEM ACT

BILL TO AMEND—SECOND READING— ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Kinsella, seconded by the Honourable Senator Corbin, for the second reading of Bill S-14, to amend the National Anthem Act to reflect the linguistic duality of Canada.—*(Honourable Senator Prud'homme, P.C.)*

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, this item stands in the name of the Honourable Senator Prud'homme, whose views on this bill we would like to hear. If he is really unable to speak to it tomorrow, I will be refusing further adjournment of the debate.

The Hon. the Speaker: Stand.

Senator Kinsella: On division.

Order stands, on division.

NATIONAL ANTHEM ACT

BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Poy, seconded by the Honourable Senator Banks, for the second reading of Bill S-3, to amend the National Anthem Act to include all Canadians.—(*Honourable Senator Cools*).

Hon. Vivienne Poy: Honourable senators, I notice that Senator Cools is not in the chamber. I asked her whether she would speak on Bill S-3, and she said yes. Thus far, she has not. Is there another way of getting an indication from her that she will definitely speak on this matter?

The Hon. the Speaker: The Deputy Leader of the Government is not rising. I cannot answer the question.

Hon. Fernand Robichaud (Deputy Leader of the Government): Your Honour, I will not speak.

The Hon. the Speaker: The options are to bring the matter to a vote, that is, to refuse to allow the order to stand, or to let it stand and to renew the honourable senator's request to Senator Cools.

Some Hon. Senators: Question!

The Hon. the Speaker: Does the Honourable Senator Poy wish to request that we deal with the question? I am not sure of the intentions of the honourable senator.

Senator Poy: Question.

Hon. Marcel Prud'homme: Honourable senators, are we on Bill S-14?

The Hon. the Speaker: No, we are on Bill S-3.

Senator Prud'homme: It stands in the name of the Honourable Senator Cools. If Senator Cools does not speak, I do not speak either.

The Hon. the Speaker: I will ask the chamber. Are you ready, honourable senators, for the question?

No one has asked that this matter be stood. Senator Poy has asked that we consider whether we wish to deal with the question now. My obligation is to look to honourable senators. Do senators wish to deal with the question now?

Some Hon. Senators: Question!

The Hon. the Speaker: Does Senator Poy wish to speak to this order? The honourable senator has the right of reply, which will close the debate.

Senator Poy: I think enough has been said about it.

Senator Prud'homme: Honourable senators, last week Senator Poy asked me, "Are you going to speak?" I said, "Of course, I will," but I was waiting for Senator Cools. Now I see that Senator Cools seems not to be in a position to speak. That is what I understand. The item stands under her name, not mine.

What I will do is ask that the item stand adjourned in the name of Senator Cools and do to Senator Cools what we did together. If she says no, she will not speak, then I will speak, as I told Senator Poy last week.

Last week, Senator Poy kindly asked if I intended to speak, and I said yes. This item stands adjourned under the name of Senator Cools. I am waiting to see what she will do. If it is a deadline that is concerning us, that is another matter. I do not see any deadline for today.

I promise to speak as soon as Senator Cools says she will not speak. I will then let the matter go.

The Hon. the Speaker: It is well established that the Senate is the master of its proceedings. We can deal with this question now, if senators so desire.

Senator Poy, I believe, will exercise her right of reply; is that right?

Senator Poy: Yes.

The Hon. the Speaker: That causes me to give notice to all honourable senators who may wish to speak that they should rise and speak now. Once I recognize Senator Poy and she speaks, that will have the effect of closing the debate.

Does Senator Prud'homme wish to speak?

• (1500)

Senator Prud'homme: My remarks will be very simple. Tampering with a national anthem is the last thing a Parliament should do. If you tamper with one word, one phrase, you open the door to a number of groups who will want to be included because they feel excluded.

My major speech will refer to *O Canada* as written by Sir Basile Routhier with the music of Calixa Lavallée. Senator Forrestall and I are almost the two last living members of the committee put together by the Right Honourable Lester B. Pearson. We listened for months to proposals from all across Canada. At the end of the

day, I stood by the mission given to me by Mr. Lester B. Pearson. As Senator Lapointe has stated, *O Canada* should never be tampered with, and I will tell you why when I speak on this issue. However, it applies equally to what I call the English version. Like many French Canadians, I resent when anglophones speak of the French version. It is not a French translation; it is a text. However, I am allowed to say politely, "the English version," when referring to the version by Judge Weir that we have debated here.

Change has taken place. I listened very attentively to Senator Poy's view. However, I still believe it would be a mistake to tamper with this Canadian symbol, as much as it is to politically abuse the Canadian flag, as is sometimes done. Symbols should be above everyone.

I believe that I am the only one here who voted for the Canadian flag. I was elected in a by-election under a minority government on that sole promise. Mr. Pearson told me to go ahead. He said that even though his was a minority government, he was determined to do it by the next election. I was with him in Winnipeg when he was booed by members of the Royal Canadian Legion. There was only Ms. Pearson, his secretary, and I standing behind Mr. Pearson, and yet we did it.

Honourable senators, if national symbols are tampered with, there will be no end to it.

I am sensitive to what Senator Poy said. I was born in a family of 12, and my mother said that boys and girls would be treated equally in her family. She differentiated herself politically from my father. She worked and voted for André Laurendeau in 1944, the first time that women could vote.

I am absolutely positive that we must never tamper with our few Canadian symbols.

I am a French Canadian and I live under the monarchy that I respect very much. I am a member of the Queen's Privy Council by her own hand, contrary to other members of the Privy Council who were made Privy Councillors by various Governors General.

I respect my tradition and I believe that our symbols should remain untouched. That is why I ask Senator Poy not to proceed to change even one word of the anthem. If one word is changed, others will want other changes. The First Nations have approached me. They have said that if this bill passes, they will ask to be included in the national anthem as well. They have strong views about being excluded from the English version.

As I said, when we start tampering with symbols, there is no end. We will have established a precedent by passing Senator Poy's motion.

Out of respect for our Canadian symbols, I say that we should not tamper with our national anthem in either language, nor should we tamper with our flag. Also, we should not abuse our head of state, the Queen, until Canadians, and only Canadians, decide that we must.

[Senator Prud'homme]

[Translation]

Senator Robichaud: Honourable senators, I have received a message from the office of the Honourable Senator Cools indicating that she cannot speak this afternoon but would still like to take part in the debate on this bill. I am merely passing on the message. It does not specify when she would like to speak.

Senator Prud'homme: Honourable senators, what is the message?

[English]

Hon. Joseph A. Day: Honourable senators, if we adjourn this matter in the name of Senator Cools, she will have two days left within which to speak.

Senator Prud'homme: No, the item will revert to day one.

The Hon. the Speaker: She will have 15 days in which to speak.

[Translation]

Senator Robichaud: Honourable senators, Senator Prud'homme has expressed his views on this. The bill is therefore back to day one, and there must be a full fifteen-day period to allow the next senator who wishes to speak to do so.

[English]

Hon. John Lynch-Staunton (Leader of the Opposition): There have been rulings in the past, I believe by Speaker Molgat, that adjourning an item in a senator's name cannot be interpreted by that senator as permission to block indefinitely debate on that item.

This item has stood in the senator's name for quite some time. I would hope that she would not take advantage of the fact that the order will be back to day one tomorrow to adjourn it for another 14 days. I would hope that someone will tell her that this chamber is anxious to vote on this item. If nothing is heard from her by the end of this week, I would hope that we can move on it early next week.

Senator Prud'homme: I wholeheartedly agree with Senator Lynch-Staunton. However, since Senator Kinsella kindly asked when I would speak on this issue, I made a study of motions, in the last two or two and a half years, that appeared on the Order Paper for the full 15 days. One motion, dealing with the conflict of interest of bureaucracies, et cetera, stood under Senator Kinsella's name for 15 days. It died on the Order Paper and then was reintroduced in another session.

We must be very careful, honourable senators, even though Senator Lynch-Staunton is quite right. If someone thinks they can exercise a dictatorship, I think the Senate will deal with that. As His Honour just said, the Senate is the master of its own rules.

• (1510)

If the Senate decides to pass an item that has been standing under the name of a senator for too long, the Senate will do so. In the meantime, I see that Senator Cools is in the chamber. Perhaps she would like to participate in the debate.

Hon. Anne C. Cools: Honourable senators, I just walked into the chamber because someone came running out to call me in. I want honourable senators to know that I was meeting with a delegation of members of Parliament from Bahrain, which, as we know, was a former Emirate. I was in no way shirking any duty. I was attending to another aspect of my duties in meeting with these individuals, who were very interested in discussing with me the role of the Senate, and particularly my interests in matters of family.

If someone could tell me what is happening and why my presence is so urgently needed, I would be happy to take part in debate.

The Hon. the Speaker: Senator Poy had a question for you.

Senator Cools: Senator Poy should hold her questions for me until I appear in the chamber.

Senator Poy: Actually, Senator Cools was not here. I did not see Senator Prud'homme, but he spoke in her place just now.

Senator Cools: He cannot speak in my place.

Senator Prud'homme: On a point of order, I did not speak for Senator Cools. It is a well-established tradition. Who would dare get up here and say, "I speak on behalf of Senator Cools"? I would not dare to do that. Others may if they wish, but not me.

When you asked me openly, "Do you intend to speak on this item?" I said, "Of course." When I saw that the bill was about to be voted on, I took the initiative of saying, "Sadly, this is not the date that I had chosen." I will let go three items under my name today because I cannot proceed any more, to be frank, but they are not on this particular issue.

I am not speaking on behalf of Senator Cools. However, any senator can get up. Usually, we ask senators whether they mind. Senator Chaput did that last week. She said, "Will you speak?" I said, "Of course. All you have to do ask whether you can speak, and the item reverts to the name of Senator Prud'homme."

I spoke. Unfortunately, I will not be able to speak again unless someone puts an amendment. I can speak on the amendment. However, the rule is very clear.

I did not speak for Senator Cools. I took the initiative, following my words to His Honour that, yes, I would speak, even though it is not my choice to speak today. Now it is done. I could have done it in a more articulate way, but my time has passed. I cannot speak any further on the matter. I think I have said enough. I could speak for hours on that issue — it is one that is

passionate and emotional for Canadians — but I do not speak for Senator Cools. Therefore, my time is up. Now we go back to square one, under the name of Senator Cools. Senator Cools will decide what she wants to do, but let me not dare to tell her what she should do. I do not think that would be advisable. She can do what she wants.

Senator Cools: Honourable senators, I see where we are. Senator Poy had asked me several days ago when I intended to speak on her bill. I told her that I intended to speak on her bill this week.

If Senator Poy had had a question to put to me, my intention was to be in the chamber as soon as I finished meeting with these people from Bahrain; she could have held her question until then. It was my clear understanding that I had indicated to Senator Poy, in a private conversation, that I was planning to speak very shortly on this bill. In any event, now I know why I was called into the chamber and I understand what was happening. In that case, I move the adjournment of the debate.

The Hon. the Speaker: It was moved by the Honourable Senator Cools, seconded by the Honourable Senator Adams, that further debate be adjourned to the next sitting of the Senate, for the balance of her time. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Senator Cools: Your Honour, I heard you say "balance of time." May I ask, balance of what time?

The Hon. the Speaker: I am sorry?

Senator Cools: I heard you say something about "the balance of time."

The Hon. the Speaker: I assume you started your remarks.

Senator Cools: No, Your Honour, I have not started speaking.

The Hon. the Speaker: That is fine. The order stands in your name. However, I draw to the attention of all honourable senators what has come up in the exchange in this matter, which is that the Senate is the master of its proceedings. If a senator wishes to deal with a matter — and this is for all senators, not just Senator Cools — standing in the name of another senator, that is for all honourable senators to decide.

Senator Cools: I should like to add that I agree that the Senate is the master of its proceedings, but part of the principle of this place is that the Senate does not move to act on any matter precipitously. If a senator's name is attached to the adjournment, some sort of deference and respect is granted to that senator. I had discussed the matter with Senator Poy and had said very clearly that I was planning to speak very soon.

Honourable senators, in the name of establishing precedents and differentiating between precedents and bad practice, it is not healthy to do and to act in this way. If a senator holds the adjournment and another senator wishes to speak, all that senator has to do is consult with the individual and, in most cases, you will find that he or she will yield the floor if it is desirable. I would submit that there is a better way of doing things.

If honourable senators do not mind, I would like to finish my meeting with the members from Bahrain.

On motion of Senator Cools, debate adjourned.

BILL TO CHANGE NAMES OF CERTAIN ELECTORAL DISTRICTS

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Rompkey, P.C., seconded by the Honourable Senator Milne, for the second reading of Bill C-300, to change the names of certain electoral districts.
—(*Honourable Senator Prud'homme, P.C.*).

Hon. Marcel Prud'homme: Honourable senators, if Senator Rompkey were to listen, he would have the shock of his life. In the spirit of what happened today — Senator Poy, too, and perhaps Senator Fairbairn — it is a gift I am giving, so you had better use it fast.

I have been approached in the spirit of cooperation. I want to use Senator Poy also as an example. I want to give to the government what it wants.

Beside this bill on the Order Paper is the word “thirteen.” This item stands adjourned under my name. I have worked on this matter so long that I will not speak for a long time. I am against any change to electoral districts between elections, but there is immense pressure coming from the other chamber by members who believe that the next election will be held with the actual map and not a new map. That is also my opinion.

Therefore, if we change the names now, they will apply at the next general election. Senator Milne, who looks on attentively today, chaired that committee. We know how strongly Senator Joyal made his views known about this bill that did not pass in the last session. It has returned with some amendments. It is the same bill. It now stands at 13 days, under my name. In the spirit of cooperation, I will say that I totally disagree with the change of names.

• (1520)

I have made my speech now. If no one else speaks, I am sure His Honour would be happy. I said to Senator Robichaud that I would clean up most of the items standing under my name so I can get out of here.

[Senator Cools]

I think this bill sets the a wrong precedent. I have sat on every committee on electoral reform since 1964. It is bad that members of Parliament suddenly, due to pressure from a village or because of electoral pressure or electoral games — and this applies equally to all commoners — say, “I want to change the name.” The best time to change names is when there is a new electoral map; then you apply.

I will give honourable senators an example. There is a new district called Bout de l'Ile. I was totally opposed to that in Montreal. In the new map, it says Bout de l'Ile, which is Pointe-aux-Trembles in Montreal. I opposed it. They wanted Bout de l'Ile, and they got it with a new map. They want it now. Since it is going to be on the new map, I started to mellow.

As a result of a friendly conversation with Senator Rompkey, who seems to be having a very important discussion, I will say that this bill is a bad precedent. I am against it. I know Senator Joyal has very strong views on that, so he will be taken by surprise when he hears that maybe we will put the question, but this bill is bad because it will cost money. That is what people do not understand. As soon as a district's name is changed, the map must be reprinted. This is only for a short time because there will be a new election. Will it be held according to the old map, in which case this bill will not apply? Will it be held according to a new map, in which case this bill will apply?

I am in the hands of honourable senators. If Senator Rompkey persists, I will be straightforward. I have had strong representations from the chief government whip of the other side. I negotiate in public, not in private. She called me. I ran so fast that my heart was pumping. She is the chief government whip and I like her. She voted with me, by the way, against the Iraq war in 1991. We were only two of four Liberals who voted against it. She is a lady you should listen to. I listen to her.

As a gift to her and as a gift to Senator Rompkey, I will not oppose her. I made my pitch to my colleagues. Changing names between elections is a bad precedent. It costs money. If that is what the Senate wants and if that is what the government is ready to let go, I will sit down and say that I made my views known. However, we are here to talk historically about how much things could cost. That is one of our responsibilities. We cannot have change without cost, especially if the change will be for such a short time.

I have made my speech as I promised; hat is number two. I kept my promise to Senator Poy; that is number one.

To honourable senators I will say that this bill is a bad precedent. Why? It is bad because it is temporary. That is the only polite way to say it. I am sure if Senator Joyal were here, he would repeat the opinion that he put to the committee.

The bill was defeated the last day of the last session. Now everything is coming back. I see Senator Milne. She was so furious. Senator Beaudoin was at that committee. The last thing we did was to defeat that same bill. The bill has been reinstituted. It is under my name. If Senator Lynch-Staunton thinks I want to exercise a boycott, I would say no.

This is a bad precedent, but senators may decide to proceed. I do not know what we will do.

Senator Joyal made such a pitch at the committee last session on the same bill that it was defeated, to the surprise of the Chair of Standing Senate Committee on Legal and Constitutional Affairs, Senator Milne. I did not vote, so she could not be unhappy with me. I was not a member of the committee. However, Liberal committee members voted against it and the bill was defeated. I like to tell stories as they are, not as they are perceived to be or as you may have been told behind the curtain. These are exactly the facts and I stand by my facts. If someone wants to challenge my facts, then they become debatable.

That is all I have to say.

The Hon. the Speaker: Is the house ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Rompkey, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

[Translation]

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

SEVENTH REPORT OF COMMITTEE ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Milne, seconded by the Honourable Senator Chalifoux, for the adoption of the Seventh Report of the Standing Committee on Rules, Procedures and the Rights of Parliament (*amendment to Rule 131—request for Government response*) presented in the Senate on February 4, 2003,

And on the motion in amendment of the Honourable Senator Lynch-Staunton, seconded by the Honourable Senator Milne, that subsection (3) of the Committee's recommendations to amend Rule 131 of the *Rules of the Senate* be further amended by replacing the words "communicate the request to the Government Leader who" with the following:

"immediately communicate the request, and send a copy of the report, to the Government Leader and to each Minister of the Crown expressly identified in the report or in the motion as a Minister responsible for responding to the report, and the Government Leader",

And on the motion of the Honourable Senator Cools, seconded by the Honourable Senator Prud'homme, P.C., that the motion for the adoption of the Seventh Report of the Standing Committee on Rules, Procedures and the Rights of Parliament and its motion in amendment be not now adopted, but be referred back to the Standing Committee for further study and report.—(*Honourable Senator Prud'homme, P.C.*)

Hon. Marcel Prud'homme: Honourable senators, I had indicated I wanted to adjourn debate on this motion moved by the Honourable Senator Milne, seconded by the Honourable Senator Chalifoux, and the amendments put forward by the Honourable Senator Lynch-Staunton, seconded by Senator Milne, and an amendment by the Honourable Senator Cools, seconded by myself.

[English]

I read all of them, and it was not easy. I read especially Senator Cools' long speech. I know some people are impatient with her, but she works so hard, so I try to find something that would convince me otherwise. I am satisfied for myself. I said I would not hold this up any more.

If someone else wants to take the floor, fine. If not, that is my speech. I am satisfied, after having read everything.

That is my speech for that motion. I have read it. I wish members would read them all. There is a lot of stuff in this.

Some Hon. Senators: Question!

• (1530)

The Hon. the Speaker: We will vote on the amendments in the order that they were received by the chamber. I will put the question on the first amendment —

Senator Kinsella: No, the last amendment.

[Translation]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, we have dealt with the last amendment to this motion and moved on to the main amendment, then on to the question on the main motion.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I agree with my honourable colleague. We work our way from the last amendment up to the second one and then on to the main motion.

[English]

The Hon. the Speaker: I called it an "amendment," but, in fact, it is not an amendment. It is a motion to refer the amendment back to the committee. We will deal with that matter first. Is it agreed, honourable senators?

An Hon. Senator: No.

Some Hon. Senators: Agreed.

The Hon. the Speaker: Someone said no.

[Translation]

Senator Robichaud: Honourable senators, so that we are clear, we will vote on the motion for referral to committee, moved by the Honourable Senator Cools, then move on to the motion in amendment put forward by the Honourable Senator Lynch-Staunton and, finally, to the main question.

[English]

The Hon. the Speaker: Honourable senators, I will choose my language carefully. I have tried to never vary from the principle that this chamber should deal with the last matter relating to an item before we proceed to the next item on the Order Paper. We will, eventually, deal with the main motion, perhaps amended, perhaps not.

I made an error in calling the motion of Senator Cools to refer an amendment back to the committee. It is not an amendment. It is a dilatory motion that is proper, even though it follows an amendment. Since it is a dilatory motion, I propose that we now deal with the last matter that was before us, that is, the motion of Senator Cools to refer the matter back to committee. I will now put the question.

It was moved by the Honourable Senator Cools, seconded by Honourable Senator Prud'homme:

That the motion for the adoption of the Seventh Report of the Standing Committee on Rules, Procedures and the Rights of Parliament and its motion in amendment be not now adopted, but be referred back to the Standing Committee for further study.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker: Will those in favour of the motion please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those opposed to the motion please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: The "nay"s have it, and the motion is defeated. We now move to the motion in amendment of Senator Lynch-Staunton. Are honourable senators ready for the question?

It was moved by the Honourable Senator Lynch-Staunton, seconded by the Honourable Senator Milne —

An Hon. Senator: Dispense.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion in amendment?

Honourable Senators: Agreed.

The Hon. the Speaker: Carried.

Are honourable senators ready for the main motion as amended? I will put the main question.

It was moved by the Honourable Senator Milne, seconded by the Honourable Senator Chalifoux, that the report of the Standing Committee on Rules, Procedures and the Rights of Parliament (amendment to Rule 31 — request for Government response), presented to the Senate on February 4, 2003 —

Some Hon. Senators: Dispense.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion as amended?

Hon. Senators: Agreed.

Some Hon. Senators: On division.

The Hon. the Speaker: The motion is adopted, on division.

Motion agreed to and report adopted, on division.

STUDY ON PUBLIC INTEREST IMPLICATIONS OF BANK MERGERS

REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on consideration of the sixth report of the Standing Senate Committee on Banking, Trade and Commerce entitled: *Competition in the Public Interest: Large Bank Mergers in Canada*, tabled in the Senate on December 12, 2002.—(Honourable Senator Lynch-Staunton).

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I had been holding this matter up because finally there is now an amendment to our rules which allows us to ask a minister to reply to a report, and I would like to see that rule applied to this report and all future reports.

However, it would be not up to me to make the amendment but up to the chairman or a member of the Standing Senate Committee on Banking, Trade and Commerce, if they agree. In this particular instance, the Banking Committee embarked on its study at the request of the Minister of Finance, and I believe it would be only appropriate for the Minister of Finance to comment on the report, and the best way to achieve that is to pass a motion to that effect in this chamber. However, I think it is only proper that the chairman of the committee, or a member of it, move that motion. Therefore, I will adjourn the debate.

On motion of Senator Lynch-Staunton, debate adjourned.

STUDY ON PROPOSAL OF VALIANTS GROUP

• (1540)

REPORT OF NATIONAL SECURITY AND DEFENCE
COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on the consideration of the fourth report of the Standing Senate Committee on National Security and Defence (study on the proposal of the Valiants Group) tabled in the Senate on December 12, 2002.—(*Honourable Senator Prud'homme, P.C.*).

Hon. Marcel Prud'homme: Honourable senators, I have very attentively read this report. You may be surprised to know that I could not get a copy because there were none left. I wrote to the very able clerk and asked her to provide me with a photocopy of the only copy that was available. That means that either people thought it was not an important item, and I am not of that view, or else that it was a very popular item and that we ran out of printed copies. I mention that for the benefit of Senators Atkins, Kinsella and others.

I would suggest that honourable senators read the fourth report of the Standing Senate Committee on National Security and Defence, regarding the study on the proposal of the Valiants Group. It is most interesting. You will see that people have done their homework. Among our many witnesses was a prominent man who is a strong proponent of this, Mr. Southam. Personally, I am satisfied that the committee did excellent work.

I think, though, that every department, including the National Capital Commission, including Heritage Canada, are ambiguous about this because of the militaristic aspect for some, and the lack of equilibrium between men and women for others.

Having said that, I was going to let these matters go, but I do not think honourable senators will be surprised to learn that someone wishes to adjourn the debate in his name. A week ago, I informed Senator Atkins that I was prepared to let this matter go ahead that, if he wanted to find someone to continue, that would be agreeable and, if not, he, too, could let it go. He found someone on the government side who worked very hard on this and who, after I finish speaking, will ask for the adjournment of the debate. If he does so, I will second, with pleasure, his motion to adjourn. He was a member of the committee that looked into this matter. However, he is not ready to speak today.

I suggest senators read this excellent report. It is very clear. I go back to what I said earlier. It is encouraging to see senators take an interest in the development of the history of their country, and this is a part of that. I would suggest, therefore, that senators who have an interest in our historical background read the report and then listen attentively in the future to the views that will be well expressed by the gentleman who will follow me and who, because of his interest in the matter, will ask for the adjournment of the debate.

On motion of Senator Day, debate adjourned.

THE SENATE

WORLD HEALTH ORGANIZATION—
MOTION REQUESTING GOVERNMENT SUPPORT FOR
TAIWAN'S REQUEST FOR OBSERVER STATUS—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Atkins:

That the Senate call on the Government of Canada to support the request of the Government of Taiwan to obtain observer status at the World Health Organization (WHO).—(*Honourable Senator Poy*).

Hon. Joseph A. Day: Honourable senators, this matter is adjourned in the name of Senator Poy. I have spoken with Senator Poy and asked if I might speak today, and then adjourn the matter in her name.

I would ask honourable senators to take close look at this motion. It is that the Senate call on the Government of Canada to support the request of the Government of Taiwan to obtain observer status at the World Health Organization. The important words are "observer status."

I should like to speak to the background of this matter so that we will all understand the context. This issue, from a political point of view, has been fomenting just below the surface for several years. The issue is whether Taiwan can be granted observer status and allowed to participate in meetings of the World Health Organization. It is not full membership, but observer status, that is being sought.

Canada, of course, is a founding member of the World Health Organization.

Let me read to you the preamble of that organization, to which Canada has been, since 1948, a signatory. It states:

The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social conditions.

Taiwan's bid for the WHO is a health and human-rights issue, and is not and should not be considered a political issue.

The recent outbreak of Severe Acute Respiratory Syndrome, which we have come to know as SARS, illustrates why Taiwan should become part of a global health community. Moreover, the Minister of Foreign Affairs, the Honourable Bill Graham, indicated that the Government of Canada continues to work with Taiwan through collaborative centres such as the Centre for Disease Control, in order to exchange up-to-date information within the health care communities of both nations.

Surely, the participation of Taiwan in the World Health Organization would help achieve this stated objective by the Government of Canada?

The House of Commons Standing Committee on Foreign Affairs and International Trade recently studied the ongoing issue of Taiwan receiving observer status at the World Health Organization. Their report, which was tabled on April 8, 2003, a month ago, recommended support for the bid of Taiwan to obtain observer status, and has been sent to the minister for consideration.

In addition, no less than three separate motions have been introduced in the other place during this legislative session, each one, in one form or another, addresses this particular issue. Most recently, on May 27, 2003, a motion was passed in the House of Commons supporting Taiwan's bid for observer status in the World Health Organization.

The motion was passed in the other place with an overwhelming majority of 163 to 67.

Furthermore, the United States Congress, the European Union and Japan have strongly voiced their support for Taiwan to be able to participate in the work of the World Health Organization. It seems only natural that a country such as Canada, which advocates universal health care, would support Taiwan's bid for observer status so it may participate in the world health community.

I find it interesting that a nation that has as much to offer to the medical community as Taiwan, still struggles to even participate at gatherings of the World Health Organization.

Taiwan boasts 14 internationally recognized medical schools and maintains a sophisticated health care and research system that is comparable to many found in the industrialized countries of the world.

Taiwan has already assisted and has expressed a willingness to continue to assist, scientifically and financially, in the programs of the World Health Organization.

Let us not forget that Canada, in 1948, and Taiwan were both founding members. It was not until 1972 that pressure was brought to bear to force Taiwan to withdraw. Let me explain the position of the People's Republic of China because it is important for us to understand.

The foreign ministry spokesperson for the People's Republic of China is quoted as saying that:

Taiwan, as a province of China, is ineligible to participate in the World Health Organization, an organization open only to sovereign countries, nor is it eligible to attend the WHO as an observer.

That is the position of the People's Republic of China.

However, Taiwan can become an observer of the World Health Organization, without being recognized as a state. This is the important point. It is not necessary to be a state and a member of the United Nations in order to be a member of the World Health Organization. It is not necessary for Canada, in supporting Taiwan's observer status at the World Health Organization, to become involved in the political debate between Taiwan and the People's Republic of China.

Five health entities have been awarded observer status to the World Health Organization, including the Holy See of the Roman Catholic Church, the Palestinian Liberation Organization, and the Order of Malta. All are members of the World Health Organization. Even some non-governmental organizations have been granted observer status, such as Rotary International, the Red Cross and the Red Crescent. As well, among the World Health Organizations' 192 members are Niue and the Cook Islands, neither of which is a UN member.

The global outbreak of SARS has highlighted the importance of this matter from a human rights and health perspective. If anything, SARS has proven to us that an epidemic such as this knows no borders.

Taiwan has a population of 23 million. More than 150,000 Taiwanese people visit Canada annually. In addition, approximately 150,000 Taiwanese immigrants and students who are living in Canada make frequent visits to Taiwan. Ten million people travel out of Taiwan each year, in addition to the 20 daily flights between Taiwan and Hong Kong.

Excluding Taiwan from the World Health Organization puts the lives of many people, including Canadians, at risk. Had the World Health Organization been able to respond to Taiwan's initial request for assistance at the first outbreak of SARS, the situation would not have escalated to the level it is at the present time. Instead, the World Health Organization sent a team of two officials to Taiwan seven weeks after the request was made.

• (1550)

While in Taiwan, the World Health Organization inspectors made no public statements, nor did they meet with any high-level Taiwanese health officials. As of May 28, Taiwan's SARS situation is at 610 cases with 81 deaths. The World Health Organization has a sample of the virus, which was obtained with Canada's help, and the organization would have been able to immediately assist the Taiwanese in securing their situation, had they been able to do so. The inclusion of Taiwan in the proceedings of the World Health Organization will be beneficial to all nations of the world in the future.

Taiwan and the People's Republic of China participate in the World Trade Organization and there is no reason, honourable senators, why we cannot use our good offices as friends of the People's Republic of China, and as a country that recognizes the People's Republic of China, to assist in sorting out this issue. It has, for many years, been considered a political issue, but in fact it is a world health issue and should be dealt with from that perspective.

The people of Taiwan are more than ready to assist in this regard, if given the opportunity. In the year 2000, the Economist Intelligence Unit of the United Kingdom rated the medical practice in Taiwan second among all the developed and newly industrialized countries, next only to Sweden. Honourable senators, I urge you to support this motion and to express your concern to the Government of Canada that this matter should be resolved.

Not including Taiwan in the World Health Organization is a direct contradiction of what is stated in the constitution. We have an obligation, as a friend of the People's Republic of China and a participant in the world community, to try to convince the People's Republic of China that Taiwan should and can participate as an observer without violating any of the political aspirations of the People's Republic of China.

It is time to acknowledge that health issues transcend political borders. We urge the government to find a way. I ask you to support this important motion on behalf of Taiwan in the interest of the global community.

Hon. A. Raynell Andreychuk: Honourable senators, I wish to speak to this matter and then, with her approval, I will adjourn in the name of Senator Poy.

I simply want to add my support for this motion that Taiwan be granted observer status in the World Health Organization. I have supported that position for some years, both publicly and privately and with the World Health Organization. I do not want to repeat the comments and details that Senator Day and others have put on the record. They are a fair comment and a good reason that we should support this motion. However, I do want to deal with two matters.

In passing this motion, I hope that honourable senators will be mindful of the fact that there is a political issue in which the United Nations and other nations have been involved for some time. That is the status of Taiwan. While I support the motion, and would, under normal circumstances, say that there is a political environment in which the issue of the determination of Taiwan should be dealt with, I must put that aside when health is an issue. Certainly, health is an issue; and, therefore, it is a human rights issue.

I am aware that Taiwan has had communications with the World Health Organization. Recently, in conversations with that organization, they indicated that they do receive information from Taiwan, but it is usually through coordinating centres which could be in either Australia or, in fact, China. Therefore, we should not feel threatened because there is absolutely no information available because, in fact, I believe that Taiwan has been acting responsibly in sharing the information to the best of its ability.

The outbreak of SARS has highlighted the fact that we cannot wait for a political solution because this is a world health issue. Diseases travel quickly and information must travel more quickly than through second-hand channels, such as coordinating centres. With the SARS epidemic, we have had a graphic illustration that instant information, using the most modern technology, will probably be our best defence against the spread of diseases.

The sharing of information directly between researchers and governments would be the best answer. Consequently, this is no time to delay and wait for political answers. We must act responsibly on the basis of human rights in a world health crisis atmosphere and ensure that the best, first-hand evidence is obtained. That would be achieved by Taiwan being granted observer status and being understood in the World Health Organization. On that basis, I would hope that no government anywhere in the world would say no to this.

I know that, in the past, concerns have been expressed when indirect routes were taken. In this case, the direct route of health and safety information should trump all other considerations. Consequently, I think we should move expeditiously in agreeing to this motion.

On motion of Senator Andreychuk, for Senator Poy, debate adjourned.

[Translation]

FOREIGN POLICY ON MIDDLE EAST

INQUIRY—ORDER STANDS

On the Order:

Resuming debate on the inquiry of the Honourable Senator Prud'homme, P.C., calling the attention of the Senate to Canadian foreign policy on the Middle East.
—(Honourable Senator Prud'homme, P.C.).

Hon. Marcel Prud'homme: Honourable senators, I do not wish to speak on this inquiry, but if anyone wishes to speak, I would be interested in hearing them before I speak.

Orders stands.

• (1600)

LINGUISTIC DATA IN 2001 CENSUS

INQUIRY

Leave having been granted to revert to Inquiry No. 13:

On the Order:

Resuming debate on the inquiry of the Honourable Senator Gauthier calling the attention of the Senate to the demo-linguistic data in the 2001 Census dealing with Canada's language profile and many other useful facts of national importance.—(Honourable Senator Gauthier).

Hon. Jean-Robert Gauthier: Honourable senators, this inquiry is very important to me because, following each census — 1971, 1981 and 1991 — the government must adjust its services to the public. Important services are provided in both official languages by federal institutions, and offices in the National Capital of Canada, Ottawa, which are — as defined by the regulations — subject to numbers.

I have been talking about this for years, and here is an opportunity to raise once again the issue of “where numbers warrant” versus “significant demand.”

Parliament held this debate 20 years ago. I took part in it. At the time, Senator Lowell Murray and I co-chaired the Special Joint Committee on Official Languages. I have the report and it is a lengthy one. Recommendation No. 4 of the report states, and I quote:

Those areas where the numbers warrant and/or where there is significant demand as determined by the governor in council on the recommendation of the Official Languages Commissioner and where regulations to that effect have been adopted under section 35 of the Official Languages Act.

There was a census in 2001. Treasury Board was to consult the users and it did.

Indeed, Diana Monnet, from Treasury Board, sent a letter to the francophone and anglophone communities in Canada, as well as to the Official Languages Commissioner. Even the official languages committees of the House and the Senate received a letter. Unfortunately, this letter was not circulated among the committee members. This is regrettable since this information is important to us.

On October 10, 2002, Diana Monnet asked these communities and other individuals involved such as Mr. Dion, the minister responsible for the Privy Council, to provide comments. By law, the committee was kept informed in writing, and that letter was not distributed to the committee members, and I do not know why. When I learned that a letter had been duly sent recently, I asked for a copy. I was told that I needed to obtain permission. Months passed before I was able to obtain a copy. I circulated the letter as soon as I received it, because I considered it important. A fundamental principle of the Official Languages Act is that, where there is significant demand, the government must provide services in both official languages.

So, this was something the Senate did not take part in. We were not informed of the process. I know, however, that, subsequent to this study, institutions subject to this legislation — there are 114 or 115 of them — must provide services to suit the public they serve. A federal institution in the capital region has no choice but to provide services in both official languages. In other regions, it depends on the numbers or the demand. After each decennial census, there must be a review, a reflective exercise on the application of the Official Languages Regulations, communication with the public and service delivery. This review is mandatory. Offices, agencies, departments and federal institutions must serve Canadians, but once again, Parliament must be involved. We must be advised. We must know what is going on. We have worked very hard for this right. I think this is elementary.

Surprised at the silence and aware of the importance of this exercise, particularly with respect to head offices, offices and institutions, I wrote to each of the representatives mentioned in

the act; the communities, the Fédération des communautés francophones et acadienne, the Quebec Community Groups Network (QCGN), Stéphane Dion and Diane Adam, asking them to brief me on what had happened.

Imagine, a parliamentarian having to write to federal agencies and institutions to find out what is going on. I received replies from the Fédération des communautés francophones et acadienne and from Dr. Adam. I was given some information on the review of the regulations.

Based on the information I received, five meetings were held from November 5, 2002 to May 22, 2003. Parliamentarians must examine the recommendations made by these officials. Draft regulations must be tabled for 30 days, which are calculated based on the House of Commons, not Parliament. Section 85 or 86 of the regulations says that it is the sitting days of the House of Commons that count. Thirty days after the draft regulations are tabled, committees or Parliament must vote on them. The draft regulations are then published in the *Canada Gazette* and become the regulations by which the Official Languages Act is enforced, is implemented, and is carried out.

If it were not for the fact that, fortunately, Minister Robillard, the President of the Treasury Board, told me in committee that she had written to us about this on October 10, I would not have known. I did not hear about it. I am sorry to say so, but we did not receive this information.

• (1610)

That annoys me because, if there is one senator in this House who tries to work seriously on this issue, it is I. I know the Act and the Regulations, too. I cannot accept being pushed aside and not being given all the information I need to work effectively.

There were five meetings of the group. I shall try to obtain the minutes of these meetings to find out how they were received. What problems did they discuss? What solutions were found to the many problems? I will not be much longer, because the message has been received.

Some cities and regions in Canada were exempt from providing services in both official languages. For example, in Victoria, in British Columbia, the number of francophones did not warrant offering services in both official languages. But they will as a result of the 2001 census. The City of Kingston, which is not far from here, did not have the required number either. Some honourable senators will remember that when the Collège Militaire Saint-Jean was moved to Kingston, that was one of the major questions raised in Parliament: would services in both official languages be available in Kingston? There were going to be students, young people, from all over Canada. We were told that no, the numbers did not warrant it. That caused some concern. Some steps were taken, and we were told, “Do not worry; we are going to meet the standards of the Province of Ontario.”

In Ontario, we have a law, Bill 8, passed a few years ago, which says that in a region where there are 5,000 people whose mother tongue is French or English, services must be provided in both official languages. Kingston, as of this moment, is eligible to receive all federal services because there will be more than 5,000 people speaking each official language in the area.

I do not know if I am advocating change, but it is high time that the Senate took care of these matters. I thought we would have an independent standing Senate committee and that senators would be interested in this. It has taken four, five, even six months to find out that a letter was sent to the committee, and that the letter had not been circulated. Why? I do not know. I do know that change is on the horizon. I promised myself one thing: if changes result in fewer services, I want Parliament to know about it. I was told not to worry. I still do not have the numbers. I am waiting. I am told that the numbers will be available at the end of June, that we will be able to review the entire issue of the regulations and Canadians' right to obtain services in both official languages from their federal institutions. Is it too much to ask that senators be informed on a regular basis, that correspondence sent to us be circulated? I think this is quite reasonable. I would simply like to end on a positive note.

The Standing Senate Committee on Official Languages must be proactive and collegial and not act like a little club, a dictatorship. It should be a parliamentary body where information is shared by everyone.

The Hon. the Speaker pro tempore: Honourable senators, if no other honourable senator wishes to speak on this matter, it shall be considered to have been debated.

PENSION ACT ROYAL CANADIAN MOUNTED POLICE SUPERANNUATION ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker pro tempore informed the Senate that a message had been received from the House of Commons with Bill C-31, to amend the Pension Act and the Royal Canadian Mounted Police Superannuation Act.

Bill read first time.

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the second time?

On motion of Senator Robichaud, bill placed on the Orders of the Day for second reading two days hence.

PUBLIC SERVICE MODERNIZATION BILL

FIRST READING

The Hon. the Speaker pro tempore informed the Senate that a message had been received from the House of Commons with Bill C-25, to modernize employment and labour relations in the public service and to amend the Financial Administration Act and the Canadian Centre for Management Development Act and to make consequential amendments to other Acts.

Bill read first time.

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the second time?

On motion of Senator Robichaud, bill placed on the Orders of the Day for second reading two days hence.

[English]

FOREIGN AFFAIRS

MOTION TO REFER 2002 BERLIN RESOLUTION OF ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPEAN PARLIAMENTARY ASSEMBLY TO COMMITTEE—ORDER STANDS

On the Order:

Resuming debate on the motion, as modified, of the Honourable Senator Grafstein, seconded by the Honourable Senator Joyal, P.C.:

That the following resolution, encapsulating the 2002 Berlin OSCE (PA) Resolution, be referred to the Standing Senate Committee on Human Rights for consideration and report before June 30, 2003:

WHEREAS Canada is a founding member State of the Organization for Security and Economic Co-operation in Europe (OSCE) and the 1975 Helsinki Accords;

WHEREAS all the participating member States to the Helsinki Accords affirmed respect for the right of persons belonging to national minorities to equality before the law and the full opportunity for the enjoyment of human rights and fundamental freedoms and further that the participating member States recognized that such respect was an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and co-operation between themselves and among all member States;

WHEREAS the OSCE condemned anti-Semitism in the 1990 Copenhagen Concluding Document and undertook to take effective measures to protect individuals from anti-Semitic violence;

WHEREAS the 1996 Lisbon Concluding Document of the OSCE called for improved implementation of all commitments in the human dimension, in particular with respect to human rights and fundamental freedoms and urged participating member States to address the acute problem of anti-Semitism;

WHEREAS the 1999 Charter for European Security committed Canada and other participating member States to counter violations of human rights and fundamental freedoms, including freedom of thought, conscience, religion or belief and manifestations of intolerance, aggressive nationalism, racism, chauvinism, xenophobia and anti-Semitism;

WHEREAS on July 8, 2002, at its Parliamentary Assembly held at the Reichstag in Berlin, Germany, the OSCE passed a unanimous resolution, as appended, condemning the current anti-Semitic violence throughout the OSCE space;

WHEREAS the 2002 Berlin Resolution urged all member States to make public statements recognizing violence against Jews and Jewish cultural properties as anti-Semitic and to issue strong, public declarations condemning the depredations;

WHEREAS the 2002 Berlin Resolution called on all participating member States to combat anti-Semitism by ensuring aggressive law enforcement by local and national authorities;

WHEREAS the 2002 Berlin Resolution urged participating members States to bolster the importance of combating anti-Semitism by exploring effective measures to prevent anti-Semitism and by ensuring that laws, regulations, practices and policies conform with relevant OSCE commitments on anti-Semitism;

WHEREAS the 2002 Berlin Resolution also encouraged all delegates to the Parliamentary Assembly to vocally and unconditionally condemn manifestations of anti-Semitic violence in their respective countries;

WHEREAS the alarming rise in anti-Semitic incidents and violence has been documented in Canada, as well as Europe and worldwide.

Appendix

RESOLUTION ON ANTI-SEMITIC VIOLENCE IN THE OSCE REGION

Berlin, 6 - 10 July 2002

1. Recalling that the OSCE was among those organizations which publicly achieved international condemnation of anti-Semitism through the crafting of the 1990 Copenhagen Concluding Document;
 2. Noting that all participating States, as stated in the Copenhagen Concluding Document, commit to "unequivocally condemn" anti-Semitism and take effective measures to protect individuals from anti-Semitic violence;
 3. Remembering the 1996 Lisbon Concluding Document, which highlights the OSCE's "comprehensive approach" to security, calls for "improvement in the implementation of all commitments in the human dimension, in particular with respect to human rights and fundamental freedoms," and urges participating States to address "acute problems," such as anti-Semitism;
 4. Reaffirming the 1999 Charter for European Security, committing participating States to "counter such threats to security as violations of human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief and manifestations of intolerance, aggressive nationalism, racism, chauvinism, xenophobia and anti-Semitism";
 5. Recognizing that the scourge of anti-Semitism is not unique to any one country, and calls for steadfast perseverance by all participating States;
- The OSCE Parliamentary Assembly:
6. Unequivocally condemns the alarming escalation of anti-Semitic violence throughout the OSCE region;
 7. Voices deep concern over the recent escalation in anti-Semitic violence, as individuals of the Judaic faith and Jewish cultural properties have suffered attacks in many OSCE participating States;
 8. Urges those States which undertake to return confiscated properties to rightful owners, or to provide alternative compensation to such owners, to ensure that their property restitution and compensation programmes are implemented in a non-discriminatory manner and according to the rule of law;
 9. Recognizes the commendable efforts of many post-communist States to redress injustices inflicted by previous regimes based on religious heritage, considering that the interests of justice dictate that more work remains to be done in this regard, particularly with regard to individual and community property restitution compensation;
 10. Recognizes the danger of anti-Semitic violence to European security, especially in light of the trend of increasing violence and attacks regions wide;
 11. Declares that violence against Jews and other manifestations of intolerance will never be justified by international developments or political issues, and that it obstructs democracy, pluralism, and peace;
 12. Urges all States to make public statements recognizing violence against Jews and Jewish cultural properties as anti-Semitic, as well as to issue strong, public declarations condemning the depredations;
 13. Calls upon participating States to ensure aggressive law enforcement by local and national authorities, including thorough investigation of anti-Semitic criminal acts, apprehension of perpetrators, initiation of appropriate criminal prosecutions and judicial proceedings;

14. Urges participating States to bolster the importance of combating anti-Semitism by holding a follow-up seminar or human dimension meeting that explores effective measures to prevent anti-Semitism, and to ensure that their laws, regulations, practices and policies conform with relevant OSCE commitments on anti-Semitism; and

15. Encourages all delegates to the Parliamentary Assembly to vocally and unconditionally condemn manifestations of anti-Semitic violence in their respective countries and at all regional and international forums.—(*Honourable Senator Prud'homme, P.C.*)

Hon. Jeremiah S. Grafstein: Honourable senators, perhaps the Honourable Senator Prud'homme could advise me when he intends to speak to this matter. It has been tabled in this house since last November. I would hope that he could do so before the adjournment in June so as to give an opportunity to have the question put to the house.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Prud'homme: I ask that this item stand, that is all.

Senator Grafstein: Perhaps I could ask Senator Prud'homme —

Senator Lynch-Staunton: Out of order.

Order stands.

NEGOTIATIONS WITH INNU (MONTAGNAIS) OF QUEBEC

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Gill calling the attention of the Senate to the issues of the common approach (negotiations) with the Innu (Montagnais) of Quebec, Quebec and Canada with respect to the current discussions.—(*Honourable Senator Watt*).

Hon. Charlie Watt: Honourable senators, I would like to continue to have this matter stand in my name because the question of Aboriginal issues, such as those in Bill C-6, are coming. As honourable senators know, our leader tabled a motion this afternoon in regard to the non-derogation clause. I intend to speak on this subject matter. I ask that it remain standing in my name.

[*Translation*]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, Senator Watt simply meant to protect his right to speak to this inquiry and to say a few words to ask the Senate for more time to prepare. At the same time, he wanted to stand the order until the next sitting and to start all over.

On motion of Senator Watt, debate adjourned.

• (1620)

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO STUDY BUSINESS DEVELOPMENT BANK OF CANADA

Hon. Raymond C. Setlakwe, pursuant to notice of May 8, 2003, moved:

That the Standing Senate Committee on Banking, Trade and Commerce be authorized to study and report upon the annual report, mission and corporate plan of the Business Development Bank of Canada and other related matters; and

That the Committee submit its final report no later than December 18, 2003.

Senator Setlakwe moved adoption of the motion.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

[*English*]

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, would it be helpful and informative for all honourable senators to have an explication by Senator Setlakwe, the mover of this motion? I would be interested to know exactly what they intend to study.

[*Translation*]

Senator Setlakwe: Honourable senators, the Committee on Banking, Trade and Commerce presented a report recommending, among other things, that the government authorize bank mergers. Concerns were expressed in this report about funding, access to capital by SMBs and individuals in remote areas of the country. That is the purpose of my motion. It is designed to authorize the Standing Senate Committee on Banking, Trade and Commerce to examine the possibility of giving the Business Development Bank of Canada additional powers to make short-term loans, for instance, something it is cannot do right now.

Senator Kinsella: I wonder if, during this study, the committee will have the opportunity to examine some of the bank's loan subsidies. I hope that this committee will have the opportunity to hear evidence on projects financed and supported by the bank. This could be a good opportunity for Canadians to examine further certain matters of public interest.

Senator Setlakwe: The purpose of my motion is to authorize the bank to make short-term loans, something it cannot do at present. I do not think that the committee's mandate should include any other subject.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, would this authorization to make loans in remote areas require the Prime Minister's intervention or could it be given directly to the bank?

Senator Setlakwe: I understand the thrust of the question of the Honourable Leader of the Opposition. I can tell him in all honesty that my motion concerns the bank and its loan terms and conditions. It had nothing to do with the Prime Minister.

Senator Kinsella: In light of this clarification and the opportunity to review the annual report of the Business Development Bank of Canada, it would be interesting to examine the bank's mission statement and organization plan. In this kind of study, there is always a part explaining how the entity is organized. If that is agreed, I am prepared to support the motion.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

[English]

THE SENATE

MARITIME HELICOPTER PROJECT—MOTION TO RECEIVE BRIEFING IN COMMITTEE OF THE WHOLE—DEBATE ADJOURNED

Hon. John Lynch-Staunton (Leader of the Opposition), pursuant to notice of May 14, 2003, moved:

That the Senate resolve itself into Committee of the Whole in order to receive Jane Billings, from the Department of Public Works and Government Services, and Alan Williams, from the Department of National Defence, for a briefing on the procurement process for the Maritime Helicopter Project in light of developments since their appearance before Committee of the Whole on October 30, 2001.

He said: Honourable senators, almost two years ago to the day, on June 5, 2001, the Leader of the Government in the Senate agreed, after many urgings by this side, that the Senate meet in Committee of the Whole in the fall of 2001. She said:

I met with the leadership on the other side yesterday, —

That is, June 4, 2001.

— and it was mutually agreed that a meeting of the Committee of the Whole to examine the Maritime Helicopter Project will be held soon after our return in September...

When we did return in September, we had various discussions, both here and outside the chamber, as to who we would like to hear at Committee of the Whole. We submitted a long list of military personnel involved in the Maritime Helicopter Project, including former members of the military who are familiar with helicopters, and even suggested that potential bidders be invited as well as officials in the departments directly involved.

The government was not happy with that list and would only allow two government officials to appear before us, who turned out to be Jane Billings, who is referred to in my motion, who was

with the Department of Public Works Government and Services, and Alan Williams from National Defence.

We expressed our disappointment at limiting the number of witnesses to two who could only speak to one aspect of the very complex Maritime Helicopter Project. We felt that, in order to get a broad view and assessment of the project, it would be better to hear from as many expert witnesses as possible. However, it turned out that both Ms. Billings and Mr. Williams were able to give us some information and explanation on the project, including why the bidding had been split into two, which was unprecedented.

• (1630)

While the exchange was not completely satisfactory, because only two witnesses were involved, we at least obtained a better understanding, from the government's point of view, as to how the project was proceeding. One and one-half years have passed and much new information about the process has been made available, some through access to information. We know that one potential bidder, in particular, had made representations through the Canadian Embassy in France. We know that the minister has agreed to re-bundle the project so that there would be only one bid rather than two bids for the same project.

In this chamber, there have been some helpful statements by the Leader of the Government, but it is impossible for her to answer all the questions, which are mainly technical in nature. The Senate should be informed about the new bidding process. What will it entail? What will be the new deadline for replacing the helicopters? What might be the regional benefits? There is also the question of lowest price rather than best-value strategy and whether it will continue. The most controversial aspect is a claim, made by one potential bidder in particular, that the specifications are being tailored in such a manner that it would be eliminated from the bidding process. That is a serious charge that has not been answered adequately. The Parliament of Canada is entitled to more specific information than it has been able to obtain to date.

The exchange with the two officials in October 2001 was helpful. It was conducted on a non-partisan level and questions came from both sides. I want to thank the two officials again for their participation. It would be helpful, given that the idea of having those two officials came from the government side, if the government were to accept the idea that, through this motion, we re-invite the same two officials to come before us to continue the discussion. That could only be helpful in coming to a better understanding of the evolution of the Maritime Helicopter Project, of where we are headed with the changes in the bidding process, and when we will be able to claim that the process is so well underway that it will finally be executed.

This motion builds on the suggestion made by the Leader of the Government in the Senate at the time to invite the same two officials. We are not insisting that others be invited, and we will do it this way for now. If need be, we could invite others at another time.

Honourable senators, I urge support for this motion. It will allow us to obtain an update on a complex, controversial, costly but necessary issue. I do not want to review the problems that we have with the Sea Kings, but as Senator Forrestall told us today, another one was forced down yesterday in an emergency landing. It is necessary that the government move as quickly as possible

and that there be the least political interference possible. Certainly, by having key officials of the two relevant departments before us, honourable senators could be reassured that certain anxieties about the process are hopefully unfounded. That is why I urge support for this motion.

On motion of Senator Robichaud, debate adjourned.

ABORIGINAL PEOPLES

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF ISSUES AFFECTING URBAN ABORIGINAL YOUTH

Hon. Thelma J. Chalifoux, pursuant to notice of May 27, 2003, moved:

That, notwithstanding the Order of the Senate adopted on October 29, 2002, the date for the final report by the Standing Senate Committee on Aboriginal Peoples in its study of issues affecting urban Aboriginal youth be extended from June 27, 2003, to October 30, 2003.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I have nothing against the motion, and I look forward to the report of the Standing Senate Committee on Aboriginal Peoples because I have been following the work of the committee on and off. However, it could well be that the house will not sit in October. I wanted to ensure that the honourable senator was aware of this and that the committee's deadline may not be met. Did the honourable senator wish to reconsider the date?

Senator Chalifoux: I have been in contact with my committee and my clerk. We hope to have the report by September, but to be on the safe side, we chose October 30 as the deadline.

[Translation]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I understand every effort will be made to get the report tabled when the Senate is in session.

Senator Chalifoux: Yes.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

AGRICULTURE AND FORESTRY

COMMITTEE AUTHORIZED TO HEAR FROM MINISTER OF AGRICULTURE AND AGRI-FOOD AND OFFICIALS ON INCIDENCES OF BOVINE SPONGIFORM ENCEPHALOPATHY

Hon. Thelma J. Chalifoux, for Hon. Donald H. Oliver, pursuant to notice of May 27, 2003, moved:

That the Standing Senate Committee on Agriculture and Forestry be authorized to hear from the Minister of Agriculture and Agri-Food and his officials in order to receive a briefing on incidences of bovine spongiform encephalopathy in Canada; and

That the Committee submit its final report no later than November 27, 2003.

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, this is a motion from the Senate Committee on Agriculture and Forestry. We obtained consent last week for the committee to have permission to sit and to meet with the minister in order to address the serious problem affecting the cattle industry. I believe that Senator Chalifoux, who is on the committee, would be prepared to move this motion.

[English]

Senator Chalifoux: Yes. On behalf of Senator Oliver, I move the motion standing in his name.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

CONSTITUTION ACT, 1867 PARLIAMENT OF CANADA ACT

BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Oliver, seconded by the Honourable Senator Stratton, for the second reading of Bill S-16, to amend the Constitution Act, 1867 and the Parliament of Canada Act (Speakership of the Senate).—(Honourable Senator Joyal, P.C.).

Hon. Serge Joyal: Honourable senators, I request leave to revert to Item No. 7 under Other Business in respect of Bill S-16, which was introduced by the Honourable Senator Oliver. The bill stands in my name and I do not want it to lapse because I have not spoken to it within the required time limit. In all fairness to Senator Oliver, the bill is important and I would prefer to have time to fully prepare my notes before I speak. With leave of the house, I move adjournment of the debate.

The Hon. the Speaker pro tempore: Is leave granted, honourable senators?

Hon. Senators: Agreed.

On motion of Senator Joyal, debate adjourned.

The Senate adjourned until Wednesday, June 4, 2003, at 1:30 p.m.

APPENDIX

Officers of the Senate

The Ministry

Senators

(Listed according to seniority, alphabetically and by provinces)

Committees of the Senate

THE SPEAKER

The Honourable Daniel P. Hays

THE LEADER OF THE GOVERNMENT

The Honourable Sharon Carstairs, P.C.

THE LEADER OF THE OPPOSITION

The Honourable John Lynch-Staunton

OFFICERS OF THE SENATE**CLERK OF THE SENATE AND CLERK OF THE PARLIAMENTS**

Paul Bélisle

DEPUTY CLERK, PRINCIPAL CLERK, LEGISLATIVE SERVICES

Gary O'Brien

LAW CLERK AND PARLIAMENTARY COUNSEL

Mark Audcent

USHER OF THE BLACK ROD

Terrance J. Christopher

THE MINISTRY

According to Precedence

(June 3, 2003)

The Right Hon. Jean Chrétien	Prime Minister
The Hon. David M. Collenette	Minister of Transport
The Hon. David Anderson	Minister of the Environment
The Hon. Ralph E. Goodale	Minister of Public Works and Government Services Minister responsible for the Canadian Wheat Board and Federal Interlocutor for Métis and Non-Status Indians
The Hon. Sheila Copps	Minister of Canadian Heritage
The Hon. John Manley	Deputy Prime Minister, Minister of Finance and Minister of Infrastructure
The Hon. Anne McLellan	Minister of Health
The Hon. Allan Rock	Minister of Industry
The Hon. Lucienne Robillard	President of the Treasury Board
The Hon. Martin Cauchon	Minister of Justice and Attorney General of Canada
The Hon. Jane Stewart	Minister of Human Resources Development
The Hon. Stéphane Dion	President of the Queen's Privy Council for Canada and Minister of Intergovernmental Affairs
The Hon. Pierre Pettigrew	Minister of International Trade
The Hon. Don Boudria	Leader of the Government in the House of Commons
The Hon. Lyle Vancilief	Minister of Agriculture and Agri-Food
The Hon. Herb Dhaliwal	Minister of Natural Resources
The Hon. Claudette Bradshaw	Minister of Labour
The Hon. Robert Daniel Nault	Minister of Indian Affairs and Northern Development
The Hon. Elinor Caplan	Minister for National Revenue
The Hon. Denis Coderre	Minister of Citizenship and Immigration
The Hon. Sharon Carstairs	Leader of the Government in the Senate
The Hon. Robert G. Thibault	Minister of Fisheries and Oceans
The Hon. Rey Pagtakhan	Minster of Veterans Affairs and Secretary of State (Science, Research and Development)
The Hon. Susan Whelan	Minister for International Cooperation
The Hon. William Graham	Minister of Foreign Affairs
The Hon. Gerry Byrne	Minister of State (Atlantic Canada Opportunities Agency)
The Hon. John McCallum	Minister of National Defence
The Hon. Wayne Easter	Solicitor General of Canada
The Hon. Ethel Blondin-Andrew	Secretary of State (Children and Youth)
The Hon. David Kilgour	Secretary of State (Asia-Pacific)
The Hon. Andrew Mitchell	Secretary of State (Rural Development) (Federal Economic Development Initiative for Northern Ontario)
The Hon. Maurizio Bevilacqua	Secretary of State (International Financial Institutions)
The Hon. Paul DeVillers	Secretary of State (Amateur Sport) and Deputy Leader of the Government in the House of Commons
The Hon. Gar Knutson	Secretary of State (Central and Eastern Europe and Middle East)
The Hon. Denis Paradis	Secretary of State (Latin America and Africa) (Francophonie)
The Hon. Claude Drouin	Secretary of State (Economic Development Agency of Canada for the Regions of Quebec)
The Hon. Stephen Owen	Secretary of State (Western Economic Diversification) (Indian Affairs and Northern Development)
The Hon. Jean Augustine	Secretary of State (Multiculturalism)(Status of Women)
The Hon. Steve Mahoney	Secretary of State (Selected Crown Corporations)

SENATORS OF CANADA

ACCORDING TO SENIORITY

(June 3, 2003)

Senator	Designation	Post Office Address
THE HONOURABLE		
Herbert O. Sparrow	Saskatchewan	North Battleford, Sask.
Edward M. Lawson	Vancouver	Vancouver, B.C.
Bernard Alasdair Graham, P.C.	The Highlands	Sydney, N.S.
Jack Austin, P.C.	Vancouver South	Vancouver, B.C.
Willie Adams	Nunavut	Rankin Inlet, Nunavut
Lowell Murray, P.C.	Pakenham	Ottawa, Ont.
C. William Doody	Harbour Main-Bell Island	St. John's, Nfld. & Lab.
Peter Alan Stollery	Bloor and Yonge	Toronto, Ont.
Peter Michael Pitfield, P.C.	Ottawa-Vanier	Ottawa, Ont.
E. Leo Kolber	Victoria	Westmount, Que.
Michael Kirby	South Shore	Halifax, N.S.
Jerahmiel S. Grafstein	Metro Toronto	Toronto, Ont.
Anne C. Cools	Toronto-Centre-York	Toronto, Ont.
Charlie Watt	Inkerman	Kuujuuaq, Que.
Daniel Phillip Hays, <i>Speaker</i>	Calgary	Calgary, Alta.
Joyce Fairbairn, P.C.	Lethbridge	Lethbridge, Alta.
Colin Kenny	Rideau	Ottawa, Ont.
Pierre De Bané, P.C.	De la Vallière	Montreal, Que.
Eymard Georges Corbin	Grand-Sault	Grand-Sault, N.B.
Brenda Mary Robertson	Riverview	Shediac, N.B.
Norman K. Atkins	Markham	Toronto, Ont.
Ethel Cochrane	Newfoundland and Labrador	Port-au-Port, Nfld. & Lab.
Eileen Rossiter	Prince Edward Island	Charlottetown, P.E.I.
Mira Spivak	Manitoba	Winnipeg, Man.
Roch Bolduc	Gulf	Sainte-Foy, Que.
Gérald-A. Beaudoin	Rigaud	Hull, Que.
Pat Carney, P.C.	British Columbia	Vancouver, B.C.
Gerald J. Comeau	Nova Scotia	Church Point, N.S.
Consiglio Di Nino	Ontario	Downsview, Ont.
Donald H. Oliver	Nova Scotia	Halifax, N.S.
Noël A. Kinsella	Fredericton-York-Sunbury	Fredericton, N.B.
John Buchanan, P.C.	Nova Scotia	Halifax, N.S.
John Lynch-Staunton	Grandville	Georgetown, Que.
James Francis Kelleher, P.C.	Ontario	Sault Ste. Marie, Ont.
J. Trevor Eyton	Ontario	Caledon, Ont.
Wilbert Joseph Keon	Ottawa	Ottawa, Ont.
Michael Arthur Meighen	St. Marys	Toronto, Ont.
J. Michael Forrestall	Dartmouth and Eastern Shore	Dartmouth, N.S.
Janis G. Johnson	Winnipeg-Interlake	Gimli, Man.
A. Raynell Andreychuk	Regina	Regina, Sask.
Jean-Claude Rivest	Stadacona	Quebec, Que.
Terrance R. Stratton	Red River	St. Norbert, Man.
Marcel Prud'homme, P.C.	La Salle	Montreal, Que.
Leonard J. Gustafson	Saskatchewan	Macoun, Sask.
David Tkachuk	Saskatchewan	Saskatoon, Sask.

Senator	Designation	Post Office Address
W. David Angus	Alma	Montreal, Que.
Pierre Claude Nolin	De Salaberry	Quebec, Que.
Marjory LeBreton	Ontario	Manotick, Ont.
Gerry St. Germain, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.
Lise Bacon	De la Durantaye	Laval, Que.
Sharon Carstairs, P.C.	Manitoba	Victoria Beach, Man.
Landon Pearson	Ontario	Ottawa, Ont.
Jean-Robert Gauthier	Ottawa-Vanier	Ottawa, Ont.
John G. Bryden	New Brunswick	Bayfield, N.B.
Rose-Marie Losier-Cool	Tracadie	Bathurst, N.B.
Céline Hervieux-Payette, P.C.	Bedford	Montreal, Que.
William H. Rompkey, P.C.	Labrador	North West River, Labrador, Nfld. & Lab.
Lorna Milne	Peel County	Brampton, Ont.
Marie-P. Poulin	Nord de l'Ontario/Northern Ontario	Ottawa, Ont.
Shirley Maheu	Rougemont	Saint-Laurent, Que.
Wilfred P. Moore	Stanhope St./Bluenose	Chester, N.S.
Lucie Pépin	Shawinigan	Montreal, Que.
Fernand Robichaud, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.
Catherine S. Callbeck	Prince Edward Island	Central Bedeque, P.E.I.
Marisa Ferretti Barth	Repentigny	Pierrefonds, Que.
Serge Joyal, P.C.	Kennebec	Montreal, Que.
Thelma J. Chalifoux	Alberta	Morinville, Alta.
Joan Cook	Newfoundland and Labrador	St. John's, Nfld. & Lab.
Ross Fitzpatrick	Okanagan-Similkameen	Kelowna, B.C.
Francis William Mahovlich	Toronto	Toronto, Ont.
Richard H. Kroft	Manitoba	Winnipeg, Man.
Douglas James Roche	Edmonton	Edmonton, Alta.
Joan Thorne Fraser	De Lorimier	Montreal, Que.
Aurélien Gill	Wellington	Mashteuiatsh, Pointe-Bleue, Que.
Vivienne Poy	Toronto	Toronto, Ont.
Ione Christensen	Yukon Territory	Whitehorse, Y.T.
George Furey	Newfoundland and Labrador	St. John's, Nfld. & Lab.
Nick G. Sibbeston	Northwest Territories	Fort Simpson, N.W.T.
Isobel Finnerty	Ontario	Burlington, Ont.
John Wiebe	Saskatchewan	Swift Current, Sask.
Tommy Banks	Alberta	Edmonton, Alta.
Jane Cordy	Nova Scotia	Dartmouth, N.S.
Raymond C. Setlakwe	The Laurentides	Thetford Mines, Que.
Yves Morin	Lauzon	Quebec, Que.
Elizabeth M. Hubley	Prince Edward Island	Kensington, P.E.I.
Laurier L. LaPierre	Ontario	Ottawa, Ont.
Viola Léger	Acadie/New Brunswick	Moncton, N.B.
Mobina S. B. Jaffer	British Columbia	North Vancouver, B.C.
Jean Lapointe	Saurel	Magog, Que.
Gerard A. Phalen	Nova Scotia	Glace Bay, N.S.
Joseph A. Day	Saint John-Kennebecasis	Hampton, N.B.
Michel Biron	Mille Isles	Nicolet, Que.
George S. Baker, P.C.	Newfoundland and Labrador	Gander, Nfld. & Lab.
Raymond Lavigne	Montarville	Verdun, Que.
David P. Smith, P.C.	Cobourg	Toronto, Ont.
Maria Chaput	Manitoba	Sainte-Anne, Man.
Pana Merchant	Saskatchewan	Regina, Sask.
Pierrette Ringuette	New Brunswick	Edmundston, N.B.

SENATORS OF CANADA

ALPHABETICAL LIST

(June 3, 2003)

Senator	Designation	Post Office Address	Political Affiliation
THE HONOURABLE			
Adams, Willie	Nunavut	Rankin Inlet, Nunavut	Lib
Andreychuk, A. Raynell	Regina	Regina, Sask.	PC
Angus, W. David	Alma	Montreal, Que.	PC
Atkins, Norman K.	Markham	Toronto, Ont.	PC
Austin, Jack, P.C.	Vancouver South	Vancouver, B.C.	Lib
Bacon, Lise	De la Durantaye	Laval, Que.	Lib
Baker, George S., P.C.	Newfoundland and Labrador	Gander, Nfld. & Lab.	Lib
Banks, Tommy	Alberta	Edmonton, Alta.	Lib
Beaudoin, Gérard-A.	Rigaud	Hull, Que.	PC
Biron, Michel	Mille Isles	Nicolet, Que.	Lib
Bolduc, Roch	Gulf	Sainte-Foy, Que.	PC
Bryden, John G.	New Brunswick	Bayfield, N.B.	Lib
Buchanan, John, P.C.	Halifax	Halifax, N.S.	PC
Callbeck, Catherine S.	Prince Edward Island	Central Bedeque, P.E.I.	Lib
Carney, Pat, P.C.	British Columbia	Vancouver, B.C.	PC
Carstairs, Sharon, P.C.	Manitoba	Victoria Beach, Man.	Lib
Chalifoux, Thelma J.	Alberta	Morinville, Alta.	Lib
Chaput, Maria	Manitoba	Sainte-Anne, Man.	Lib
Christensen, Ione	Yukon Territory	Whitehorse, Y.T.	Lib
Cochrane, Ethel	Newfoundland and Labrador	Port-au-Port, Nfld. & Lab.	PC
Comeau, Gerald J.	Nova Scotia	Church Point, N.S.	PC
Cook, Joan	Newfoundland and Labrador	St. John's, Nfld. & Lab.	Lib
Cools, Anne C.	Toronto-Centre-York	Toronto, Ont.	Lib
Corbin, Eymard Georges	Grand-Sault	Grand-Sault, N.B.	Lib
Cordy, Jane	Nova Scotia	Dartmouth, N.S.	Lib
Day, Joseph A.	Saint John-Kennebecasis	Hampton, N.B.	Lib
De Bané, Pierre, P.C.	De la Vallière	Montreal, Que.	Lib
Di Nino, Consiglio	Ontario	Downsview, Ont.	PC
Doody, C. William	Harbour Main-Bell Island	St. John's, Nfld. & Lab.	PC
Eyton, J. Trevor	Ontario	Caledon, Ont.	PC
Fairbairn, Joyce, P.C.	Lethbridge	Lethbridge, Alta.	Lib
Ferretti Barth, Marisa	Repentigny	Pierrefonds, Que.	Lib
Finnerty, Isobel	Ontario	Burlington, Ont.	Lib
Fitzpatrick, Ross	Okanagan-Similkameen	Kelowna, B.C.	Lib
Forrestall, J. Michael	Dartmouth and the Eastern Shore	Dartmouth, N.S.	PC
Fraser, Joan Thorne	De Lorimier	Montreal, Que.	Lib
Furey, George	Newfoundland and Labrador	St. John's, Nfld. & Lab.	Lib
Gauthier, Jean-Robert	Ottawa-Vanier	Ottawa, Ont.	Lib
Gill, Aurélien	Wellington	Mashteuiatsh, Pointe-Bleue, Que.	Lib
Grafstein, Jerahmiel S.	Metro Toronto	Toronto, Ont.	Lib
Graham, Bernard Alasdair, P.C.	The Highlands	Sydney, N.S.	Lib
Gustafson Leonard J.	Saskatchewan	Macoun, Sask.	PC
Hays, Daniel Phillip, <i>Speaker</i>	Calgary	Calgary, Alta.	Lib
Hervieux-Payette, Céline, P.C.	Bedford	Montreal, Que.	Lib
Hubley, Elizabeth M.	Prince Edward Island	Kensington, P.E.I.	Lib
Jaffer, Mobina S. B.	British Columbia	North Vancouver, B.C.	Lib

Senator	Designation	Post Office Address	Political Affiliation
Johnson, Janis G.	Winnipeg-Interlake	Gimli, Man.	PC
Joyal, Serge, P.C.	Kennebec	Montreal, Que.	Lib
Kelleher, James Francis, P.C.	Ontario	Sault Ste. Marie, Ont.	PC
Kenny, Colin	Rideau	Ottawa, Ont.	Lib
Keon, Wilbert Joseph	Ottawa	Ottawa, Ont.	PC
Kinsella, Noël A.	Fredericton-York-Sunbury	Fredericton, N.B.	PC
Kirby, Michael	South Shore	Halifax, N.S.	Lib
Kolber, E. Leo	Victoria	Westmount, Que.	Lib
Kroft, Richard H.	Manitoba	Winnipeg, Man.	Lib
LaPierre, Laurier L.	Ontario	Ottawa, Ont.	Lib
Lapointe, Jean	Saurel	Magog, Que.	Lib
Lavigne, Raymond	Montarville	Verdun, Que.	Lib
Lawson, Edward M.	Vancouver	Vancouver, B.C.	Ind
LeBreton, Marjory	Ontario	Manotick, Ont.	PC
Léger, Viola	Acadie/New Brunswick	Moncton, N.B.	Lib
Losier-Cool, Rose-Marie	Tracadie	Bathurst, N.B.	Lib
Lynch-Staunton, John	Grandville	Georgeville, Que.	PC
Maheu, Shirley	Rougemont	Saint-Laurent, Que.	Lib
Mahovlich, Francis William	Toronto	Toronto, Ont.	Lib
Meighen, Michael Arthur	St. Marys	Toronto, Ont.	PC
Merchant, Pana	Saskatchewan	Regina, Sask.	Lib
Milne, Lorna	Peel County	Brampton, Ont.	Lib
Moore, Wilfred P.	Stanhope St./Bluenose	Chester, N.S.	Lib
Morin, Yves	Lauson	Quebec, Que.	Lib
Murray, Lowell, P.C.	Pakenham	Ottawa, Ont.	PC
Nolin, Pierre Claude	De Salaberry	Quebec, Que.	PC
Oliver, Donald H.	Nova Scotia	Halifax, N.S.	PC
Pearson, Landon	Ontario	Ottawa, Ontario	Lib
Pépin, Lucie	Shawinigan	Montreal, Que.	Lib
Phalen, Gerard A.	Nova Scotia	Glace Bay, N.S.	Lib
Pitfield, Peter Michael, P.C.	Ottawa-Vanier	Ottawa, Ont.	Ind
Poulin, Marie-P.	Nord de l'Ontario/Northern Ontario	Ottawa, Ont.	Lib
Poy, Vivienne	Toronto	Toronto, Ont.	Lib
Prud'homme, Marcel, P.C.	La Salle	Montreal, Que.	Ind
Ringuette, Pierrette	New Brunswick	Edmundston, N.B.	Lib
Rivest, Jean-Claude	Stadacona	Quebec, Que.	PC
Robertson, Brenda Mary	Riverview	Shediac, N.B.	PC
Robichaud, Fernand, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.	Lib
Roche, Douglas James	Edmonton	Edmonton, Alta.	Ind
Rompkey, William H., P.C.	Labrador	North West River, Labrador, Nfld. & Lab.	Lib
Rossiter, Eileen	Prince Edward Island	Charlottetown, P.E.I.	PC
St. Germain, Gerry, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.	CA
Setlakwe, Raymond C.	The Laurentides	Thetford Mines, Que.	Lib
Sibbeston, Nick G.	Northwest Territories	Fort Simpson, N.W.T.	Lib
Smith, David P., P.C.	Cobourg	Toronto, Ont.	Lib
Sparrow, Herbert O.	Saskatchewan	North Battleford, Sask.	Lib
Spivak, Mira	Manitoba	Winnipeg, Man.	PC
Stollery, Peter Alan	Bloor and Yonge	Toronto, Ont.	Lib
Stratton, Terrance R.	Red River	St. Norbert, Man.	PC
Tkachuk, David	Saskatchewan	Saskatoon, Sask.	PC
Watt, Charlie	Inkerman	Kuujuuaq, Que.	Lib
Wiebe, John	Saskatchewan	Swift Current, Sask.	Lib

SENATORS OF CANADA

BY PROVINCE AND TERRITORY

(June 3, 2003)

ONTARIO—24

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Lowell Murray, P.C.	Pakenham	Ottawa
2 Peter Alan Stollery	Bloor and Yonge	Toronto
3 Peter Michael Pitfield, P.C.	Ottawa-Vanier	Ottawa
4 Jeremiah S. Grafstein	Metro Toronto	Toronto
5 Anne C. Cools	Toronto-Centre-York	Toronto
6 Colin Kenny	Rideau	Ottawa
7 Norman K. Atkins	Markham	Toronto
8 Consiglio Di Nino	Ontario	Downsview
9 James Francis Kelleher, P.C.	Ontario	Sault Ste. Marie
10 John Trevor Eyton	Ontario	Caledon
11 Wilbert Joseph Keon	Ottawa	Ottawa
12 Michael Arthur Meighen	St. Marys	Toronto
13 Marjory LeBreton	Ontario	Manotick
14 Landon Pearson	Ontario	Ottawa
15 Jean-Robert Gauthier	Ottawa-Vanier	Ottawa
16 Lorna Milne	Peel County	Brampton
17 Marie-P. Poulin	Northern Ontario	Ottawa
18 Francis William Mahovlich	Toronto	Toronto
19 Vivienne Poy	Toronto	Toronto
20 Isobel Finnerty	Ontario	Burlington
21 Laurier L. LaPierre	Ontario	Ottawa
22 David P. Smith, P.C.	Cobourg	Toronto
23		
24		

SENATORS BY PROVINCE AND TERRITORY

QUEBEC—24

Senator	Designation	Post Office Address
THE HONOURABLE		
1 E. Leo Kolber	Victoria	Westmount
2 Charlie Watt	Inkerman	Kuujuaq
3 Pierre De Bané, P.C.	De la Vallière	Montreal
4 Roch Bolduc	Gulf	Sainte-Foy
5 Gérard-A. Beaudoin	Rigaud	Hull
6 John Lynch-Staunton	Grandville	Georgeville
7 Jean-Claude Rivest	Stadacona	Quebec
8 Marcel Prud'homme, P.C.	La Salle	Montreal
9 W. David Angus	Alma	Montreal
10 Pierre Claude Nolin	De Salaberry	Quebec
11 Lise Bacon	De la Durantaye	Laval
12 Céline Hervieux-Payette, P.C.	Bedford	Montreal
13 Shirley Maheu	Rougemont	Ville de Saint-Laurent
14 Lucie Pépin	Shawinigan	Montreal
15 Marisa Ferretti Barth	Repentigny	Pierrefonds
16 Serge Joyal, P.C.	Kennebec	Montreal
17 Joan Thorne Fraser	De Lorimier	Montreal
18 Aurélien Gill	Wellington	Mashteuiatsh, Pointe-Bleue
19 Raymond C. Setlakwe	The Laurentides	Thetford Mines
20 Yves Morin	Lauzon	Quebec
21 Jean Lapointe	Saurel	Magog
22 Michel Biron	Milles Isles	Nicolet
23 Raymond Lavigne	Montarville	Verdun
24	De Lanaudière	

SENATORS BY PROVINCE-MARITIME DIVISION

NOVA SCOTIA—10

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Bernard Alasdair Graham, P.C.	The Highlands	Sydney
2 Michael Kirby	South Shore	Halifax
3 Gerald J. Comeau	Nova Scotia	Church Point
4 Donald H. Oliver	Nova Scotia	Halifax
5 John Buchanan, P.C.	Halifax	Halifax
6 J. Michael Forrestall	Dartmouth and Eastern Shore	Dartmouth
7 Wilfred P. Moore	Stanhope St./Bluenose	Chester
8 Jane Cordy	Nova Scotia	Dartmouth
9 Gerard A. Phalen	Nova Scotia	Glace Bay
10 .....	.....	.....

NEW BRUNSWICK—10

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Eymard Georges Corbin	Grand-Sault	Grand-Sault
2 Brenda Mary Robertson	Riverview	Shediac
3 Noël A. Kinsella	Fredericton-York-Sunbury	Fredericton
4 John G. Bryden	New Brunswick	Bayfield
5 Rose-Marie Losier-Cool	Tracadie	Bathurst
6 Fernand Robichaud, P.C.	Saint-Louis-de-Kent	Saint-Louis-de-Kent
7 Viola Léger	Acadie/New Brunswick	Moncton
8 Joseph A. Day	Saint John-Kennebecasis	Hampton
9 Pierrette Ringuette	New Brunswick	Edmundston
10 .....	.....	.....

PRINCE EDWARD ISLAND—4

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Eileen Rossiter	Prince Edward Island	Charlottetown
2 Catherine S. Callbeck	Prince Edward Island	Central Bedeque
3 Elizabeth M. Hubley	Prince Edward Island	Kensington
4 .....	.....	.....

SENATORS BY PROVINCE-WESTERN DIVISION

MANITOBA—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Mira Spivak	Manitoba	Winnipeg
2 Janis G. Johnson	Winnipeg-Interlake	Gimli
3 Terrance R. Stratton	Red River	St. Norbert
4 Sharon Carstairs, P.C.	Manitoba	Victoria Beach
5 Richard H. Kroft	Manitoba	Winnipeg
6 Maria Chaput	Manitoba	Sainte-Anne

BRITISH COLUMBIA—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Edward M. Lawson	Vancouver	Vancouver
2 Jack Austin, P.C.	Vancouver South	Vancouver
3 Pat Carney, P.C.	British Columbia	Vancouver
4 Gerry St. Germain, P.C.	Langley-Pemberton-Whistler	Maple Ridge
5 Ross Fitzpatrick	Okanagan-Similkameen	Kelowna
6 Mobina S.B. Jaffer	British Columbia	North Vancouver

SASKATCHEWAN—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Herbert O. Sparrow	Saskatchewan	North Battleford
2 A. Raynell Andreychuk	Regina	Regina
3 Leonard J. Gustafson	Saskatchewan	Macoun
4 David Tkachuk	Saskatchewan	Saskatoon
5 John Wiebe	Saskatchewan	Swift Current
6 Pana Merchant	Saskatchewan	Regina

ALBERTA—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Daniel Phillip Hays, <i>Speaker</i>	Calgary	Calgary
2 Joyce Fairbairn, P.C.	Lethbridge	Lethbridge
3 Thelma J. Chalifoux	Alberta	Morinville
4 Douglas James Roche	Edmonton	Edmonton
5 Tommy Banks	Alberta	Edmonton
6 . . . . .	. . . . .	. . . . .

SENATORS BY PROVINCE AND TERRITORY

NEWFOUNDLAND AND LABRADOR—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 C. William Doody	Harbour Main-Bell Island	St. John's
2 Ethel Cochrane	Newfoundland and Labrador	Port-au-Port
3 William H. Rompkey, P.C.	Labrador	North West River, Labrador
4 Joan Cook	Newfoundland and Labrador	St. John's
5 George Furey	Newfoundland and Labrador	St. John's
6 George S. Baker, P.C.	Newfoundland and Labrador	Gander

NORTHWEST TERRITORIES—1

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Nick G. Sibbeston	Northwest Territories	Fort Simpson

NUNAVUT—1

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Willie Adams	Nunavut	Rankin Inlet

YUKON TERRITORY—1

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Ione Christensen	Yukon Territory	Whitehorse

ALPHABETICAL LIST OF STANDING, SPECIAL AND JOINT COMMITTEES

(As of June 3, 2003)

*Ex Officio Member

ABORIGINAL PEOPLES

Chair: Honourable Senator Chalifoux

Deputy Chair: Honourable Senator Johnson

Honourable Senators:

Austin,	Chalifoux,	Gill,	Pearson,
Carney,	Chaput,	Léger,	Sibbeston,
Carstairs,	Christensen,	* Lynch-Staunton,	Stratton,
(or Robichaud)	Forrestall,	(or Kinsella)	Tkachuk.

Original Members as nominated by the Committee of Selection

Carney, *Carstairs (or Robichaud), Chalifoux, Christensen, Gill, Hubley, Johnson, Léger, *Lynch-Staunton (or Kinsella), Pearson, Sibbeston, St. Germain, Tkachuk.

AGRICULTURE AND FORESTRY

Chair: Honourable Senator Oliver

Deputy Chair: Honourable Senator Wiebe

Honourable Senators:

Carstairs,	Fairbairn,	LeBreton,	Ringuette,
(or Robichaud)	Gustafson,	* Lynch-Staunton,	Tkachuk,
Chalifoux,	Hubley,	(or Kinsella)	Wiebe.
Day,	LaPierre,	Oliver,	

Original Members as nominated by the Committee of Selection

*Carstairs (or Robichaud), Chalifoux, Day, Fairbairn, Gustafson, Hubley, LaPierre, Lapointe, LeBreton, *Lynch-Staunton (or Kinsella), Moore, Oliver, Tkachuk, Wiebe.

BANKING, TRADE AND COMMERCE

Chair: Honourable Senator Kolber

Deputy Chair: Honourable Senator Tkachuk

Honourable Senators:

Angus,	Fitzpatrick,	Kroft,	Oliver,
Biron,	Hervieux-Payette,	* Lynch-Staunton,	Prud'homme,
Carstairs,	Kelleher,	(or Kinsella)	Setlakwe,
(or Robichaud)	Kolber,	Moore,	Tkachuk.

Original Members as nominated by the Committee of Selection

Angus, *Carstairs (or Robichaud), Fitzpatrick, Hervieux-Payette, Kelleher, Kolber, Kroft, *Lynch-Staunton (or Kinsella), Meighen, Poulin, Prud'homme, Setlakwe, Taylor, Tkachuk.

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES**Chair: Honourable Senator Banks****Deputy Chair: Honourable Senator Spivak****Honourable Senators:**

Baker,	Christensen,	Kenny,	Milne,
Banks,	Cochrane,	* Lynch-Staunton,	Spivak,
Buchanan,	Eyton,	(or Kinsella)	Watt.
* Carstairs,	Finnerty,	Merchant,	
(or Robichaud)			

Original Members as nominated by the Committee of Selection

*Baker, Banks, Buchanan, *Carstairs (or Robichaud), Christensen, Cochrane, Eyton, Finnerty, Kenny, *Lynch-Staunton (or Kinsella), Milne, Spivak, Taylor, Watt.*

FISHERIES AND OCEANS**Chair: Honourable Senator Comeau****Deputy Chair: Honourable Senator Cook****Honourable Senators:**

Adams,	Cochrane,	Johnson,	Meighen,
Baker,	Comeau,	* Lynch-Staunton,	Phalen,
* Carstairs,	Cook,	(or Kinsella)	Watt.
(or Robichaud)	Hubley,	Mahovlich,	

Original Members as nominated by the Committee of Selection

*Adams, Baker, *Carstairs (or Robichaud), Cochrane, Comeau, Cook, Hubley, Johnson, *Lynch-Staunton (or Kinsella), Mahovlich, Moore, Phalen, Robertson, Watt*

FOREIGN AFFAIRS**Chair: Honourable Senator Stollery****Deputy Chair: Honourable Senator Di Nino****Honourable Senators:**

Andreychuk,	* Carstairs,	Di Nino,	* Lynch-Staunton,
Austin,	(or Robichaud)	Grafstein,	(or Kinsella)
Bolduc,	Corbin,	Graham,	Setlakwe,
Carney,	De Bané,	Losier-Cool,	Stollery.

Original Members as nominated by the Committee of Selection

*Andreychuk, Austin, Bolduc, Carney, *Carstairs (or Robichaud), Corbin, De Bané, Di Nino, Grafstein, Graham, Losier-Cool, *Lynch-Staunton (or Kinsella), Setlakwe, Stollery.*

HUMAN RIGHTS

Chair: Honourable Senator Maheu

Deputy Chair: Honourable Senator Rossiter

Honourable Senators:

Beaudoin,	Ferretti Barth,	Kinsella,	Maheu,
Carstairs,	Jaffer,	* Lynch-Staunton,	Poy,
(or Robichaud)	LaPierre,	(or Kinsella)	Rivest.
Chaput,			

Original Members as nominated by the Committee of Selection

*Beaudoin, *Carstairs (or Robichaud), Ferretti Barth, Fraser, Jaffer, LaPierre,
Lynch-Staunton (or Kinsella), Maheu, Poy, Rivest, Rossiter.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

Chair: Honourable Senator Bacon

Interim Deputy Chair: Honourable Senator Robertson

Honourable Senators:

Atkins,	* Carstairs,	Gill,	Poulin,
Austin,	(or Robichaud)	Jaffer,	Robertson,
Bacon,	De Bané,	Kroft,	Robichaud,
Bolduc,	Eyton,	* Lynch-Staunton,	Stratton.
Bryden,	Gauthier,	(or Kinsella)	

Original Members as nominated by the Committee of Selection

*Angus, Atkins, Austin, *Carstairs (or Robichaud), Bacon, Bryden, De Bané, Doody, Eyton, Gauthier,
Gill, Jaffer, Kroft, *Lynch-Staunton (or Kinsella), Poulin, Robichaud, Stratton.*

LEGAL AND CONSTITUTIONAL AFFAIRS

Chair: Honourable Senator Furey

Deputy Chair: Honourable Senator Beaudoin

Honourable Senators:

Andreychuk,	* Carstairs,	Jaffer,	Nolin,
Baker,	(or Robichaud)	Joyal,	Pearson,
Beaudoin,	Cools,	* Lynch-Staunton,	Smith.
Bryden,	Furey,	(or Kinsella)	
Buchanan			

Original Members as nominated by the Committee of Selection

*Andreychuk, Baker, Beaudoin, Bryden, Buchanan, *Carstairs (or Robichaud), Cools, Furey,
Jaffer, Joyal, *Lynch-Staunton (or Kinsella), Nolin, Pearson, Smith.*

LIBRARY OF PARLIAMENT (Joint)

Joint Chair:

Vice-Chair:

Honourable Senators:

Bolduc,	Lapointe,	Morin,	Poy.
Forrestall,			

*Original Members agreed to by Motion of the Senate**Bolduc, Forrestall, Lapointe, Morin, Poy.*

NATIONAL FINANCE

Chair: Honourable Senator Murray

Deputy Chair: Honourable Senator Day

Honourable Senators:

Biron,	Comeau,	Furey,	Maheu,
Bolduc,	Day,	Gauthier,	Mahovlich,
* Carstairs,	Ferretti Barth,	* Lynch-Staunton,	Murray,
(or Robichaud)	Finnerty,	(or Kinsella)	Oliver.

*Original Members as nominated by the Committee of Selection**Biron, Bolduc, *Carstairs (or Robichaud), Cools, Day, Doody, Eyton, Ferretti Barth, Finnerty, Furey, Gauthier, *Lynch-Staunton (or Kinsella), Mahovlich, Murray.*

NATIONAL SECURITY AND DEFENCE

Chair: Honourable Senator Kenny

Deputy Chair: Honourable Senator Forrestall

Honourable Senators:

Atkins,	Cordy,	Kenny,	Meighen,
Banks,	Day,	* Lynch-Staunton,	Smith,
* Carstairs,	Forrestall,	(or Kinsella)	Wiebe.
(or Robichaud)			

*Original Members as nominated by the Committee of Selection**Atkins, Banks, *Carstairs (or Robichaud), Cordy, Day, Forrestall, Kenny, *Lynch-Staunton (or Kinsella), Meighen, Smith, Wiebe.*

VETERANS AFFAIRS
(Subcommittee of National Security and Defence)

Chair: Honourable Senator Meighen Deputy Chair: Honourable Senator Day

Honourable Senators:

Atkins,	Day,	* Lynch-Staunton,	Meighen,
Carstairs,	Kenny,	(or Kinsella)	Wiebe.
(or Robichaud)			

OFFICIAL LANGUAGES

Chair: Honourable Senator Losier-Cool Deputy Chair: Honourable Senator Keon

Honourable Senators:

Beaudoin,	Comeau,	Lapointe,	* Lynch-Staunton,
Carstairs,	Gauthier,	Léger,	(or Kinsella)
(or Robichaud)	Keon,	Losier-Cool,	Maheu.
Chaput,			

Original Members agreed to by Motion of the Senate
*Beaudoin, *Carstairs (or Robichaud), Comeau, Ferretti Barth, Gauthier, Keon, Lapointe,*
*Léger, Losier-Cool, *Lynch-Staunton (or Kinsella), Maheu.*

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

Chair: Honourable Senator Milne Deputy Chair: Honourable Senator Andreychuk

Honourable Senators:

Andreychuk,	Fraser,	* Lynch-Staunton,	Robertson,
Carstairs,	Grafstein,	(or Kinsella)	Rompkey,
(or Robichaud)	Hubley,	Milne,	Smith,
Cordy,	Joyal,	Murray,	Stratton,
Di Nino,		Ringuette,	Wiebe.

Original Members as nominated by the Committee of Selection
*Andreychuk, Bacon, *Carstairs (or Robichaud), Di Nino, Grafstein, Joyal, Losier-Cool,*
**Lynch-Staunton (or Kinsella), Milne, Murray, Pépin, Pitfield, Robertson,*
Rompkey, Smith, Stratton, Wiebe.

SCRUTINY OF REGULATIONS (Joint)

Joint Chair: Honourable Hervieux-Payette

Vice-Chair:

Honourable Senators:

Biron,	Kelleher,	Moore,	Phalen.
Hervieux-Payette,	Merchant,	Nolin,	

Original Members as agreed to by Motion of the Senate

Biron, Hervieux-Payette, Hubley, Kelleher, Moore, Nolin, Phalen.

SELECTION

Chair: Honourable Senator Rompkey

Deputy Chair: Honourable Senator Stratton

Honourable Senators:

Biron,	De Bané,	Kolber,	Rompkey,
* Carstairs,	Fairbairn,	LeBreton,	Stratton,
(or Robichaud)	Kinsella,	* Lynch-Staunton,	Tkachuk.
		(or Kinsella)	

Original Members agreed to by Motion of the Senate

*Bacon, *Carstairs, (or Robichaud), De Bané, Fairbairn, Kinsella, Kolber, LeBreton, *Lynch-Staunton, (or Kinsella), Rompkey, Stratton, Tkachuk.*

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

Chair: Honourable Senator Kirby

Deputy Chair: Honourable Senator LeBreton

Honourable Senators:

Callbeck,	Cordy,	LeBreton,	Morin,
* Carstairs,	Fairbairn,	Léger,	Robertson,
(or Robichaud)	Keon,	* Lynch-Staunton,	Roche,
Cook,	Kirby,	(or Kinsella)	Rossiter.

Original Members as nominated by the Committee of Selection

*Callbeck *Carstairs (or Robichaud), Cook, Cordy, Di Nino Fairbairn, Keon, Kirby, LeBreton, *Lynch-Staunton (or Kinsella), Morin, Pépin, Robertson, Roche.*

TRANSPORT AND COMMUNICATIONS

Chair: Honourable Senator Fraser

Deputy Chair: Honourable Senator Gustafson

Honourable Senators:

Adams,	Eyton,	LaPierre,	Oliver,
Carstairs,	Fraser,	* Lynch-Staunton,	Phalen,
(or Robichaud)	Graham,	(or Kinsella)	Ringuette
Day,	Gustafson,	Merchant,	Spivak.

Original Members as nominated by the Committee of Selection

*Adams, Biron, Callbeck, *Carstairs (or Robichaud), Day, Eyton, Fraser, Graham, Gustafson, Johnson, LaPierre,*Lynch-Staunton (or Kinsella), Phalen, Spivak.*

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CANADA

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OFFICIAL REPORT
(HANSARD)

Wednesday, June 4, 2003

THE HONOURABLE DAN HAYS
SPEAKER



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THE SENATE

Wednesday, June 4, 2003

The Senate met at 1:30 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

SENATOR'S STATEMENT

PEOPLE'S REPUBLIC OF CHINA

FOURTEENTH ANNIVERSARY OF MASSACRE IN TIANANMEN SQUARE

Hon. Consiglio Di Nino: Honourable senators, 14 years ago today, the world was stunned by the images of violence that filled television screens and radio broadcasts following the massacre in Tiananmen Square. The events evoked outrage not only for the loss of innocent lives but also because of what the violence represented: a brutal crackdown on China's pro-democracy movement and more broadly, an attack on fundamental human rights and freedoms.

The events in Tiananmen Square focused the world's attention on the issue of human rights abuses in China. Almost 15 years later, however, Chinese citizens continue to suffer at the hands of their nation's government. Reports from human rights organizations such as Amnesty International and Human Rights Watch are not encouraging. A recent trend being reported by these organizations is the sentencing of religious and political dissidents to terms in psychiatric hospitals.

In the March 31 edition of *The Globe and Mail*, Mr. John Lloyd exposed this systematic imprisonment. Quoting China expert Jonathan Mirsky, Mr. Lloyd described, in some detail, the treatment of Falun Gong practitioners at the hands of Chinese authorities. According to Mr. Mirsky:

Tens of thousands were detained, arrested, charged, imprisoned and sometimes tortured — and hundreds were sent to mental hospitals.

Honourable senators, the Universal Declaration of Human Rights, which the Chinese government continues to ignore, states that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

It is imperative that we continue to shine a powerful light on the atrocities committed by the Chinese government and begin to hold it accountable for the repression of its citizens.

On this somber anniversary, honourable senators, it is important that we do not forget the lessons learned from the Tiananmen Square massacre and recommit ourselves to addressing the issue of human rights abuses in China.

QUESTION PERIOD

CANADA CUSTOMS AND REVENUE AGENCY

AUDITOR GENERAL'S REPORT—BORDER SECURITY

Hon. Consiglio Di Nino: Honourable senators, my question is for the Leader of the Government in the Senate and relates to chapter 2 of the latest Auditor General's report. This chapter reviews the efforts of the Canada Customs and Revenue Agency to improve border security since the events of September 11.

While the Auditor General compliments the CCRA, she points out that there are critical areas of border security that need more attention. These areas include:

...integrating the risks of other government entities into Customs risk assessments, analyzing examination results to provide better information for targeting high-risk travellers and shipments, analyzing compliance verification results...and ensuring Customs officers get the training they need in a timely manner.

The agency responded that it would continue to improve its performance in these areas.

Honourable senators, it has been over a year and a half since September 11. The CCRA has been allocated \$433 million over the next five years to do its part in enhancing the personal and economic security of Canadians. Some of the matters raised by the Auditor General had been identified by the Auditor General as far back as the year 2000, three years ago.

Could the Leader of the Government please shed some light on why the CCRA has not met its responsibility to increase border security in a more timely fashion? Is this a case of bureaucratic inertia, or is this the consequences of a leadership vacuum emanating from the upper echelons of government?

• (1340)

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, it is unusual, but I do not agree with anything the honourable senator has said because everything he has said is, quite frankly, incorrect. The Auditor General's report recognized the tremendous progress — her words, not mine — that the CCRA and other departments have made in implementing the Smart Border agenda, which includes the very security issues the honourable senator has addressed.

Have we maximized the work that needs to be done? No, we have not. We are continuing to train more and more workers. We are entering into further agreements with the United States with respect to Smart Border action, which not only will make for better surveillance in terms of weeding out those who should not

enter either country, but also, at the same time, make it possible for Canadians with good references and qualities to cross into the United States as quickly as possible, and for Americans with the same qualities to enter Canada.

Senator Di Nino: It is interesting that we would read the same document differently, although it is not completely surprising. I did say that the Auditor General compliments CCRA for the improvements it has made. However, when we talk about the fact that better information to target high-risk scenarios is not being received, and when we talk about the Auditor General suggesting that customs officers are not being trained in a timely fashion, I do not think, honourable senators, that that is a compliment.

In her report, the Auditor General also reveals that the CCRA has not systematically tracked its spending on projects for public security and anti-terrorism and will likely — these are her comments, not mine — not be able to fully account for how those funds have been spent. How can Canadians be assured that the funds allocated to the CCRA for increased border security and anti-terrorism initiatives have been properly spent if the CCRA does not keep track of such spending, and what will the political leadership of this government do to straighten up this mess?

Senator Carstairs: Honourable senators, the honourable minister responsible has indicated that the CCRA is in the process of reviewing all of the Auditor General's comments and concerns, and that they will address those comments and concerns with dispatch.

As to whether we are a safer country to enter or to exit today than we were before September 11, I would suggest, in no uncertain terms, that we are. Have we met all of our objectives? Our own Senate committee has indicated that, no, we have not. Clearly more work has to be done. The government recognizes that and is pursuing those initiatives.

HEALTH

SEVERE ACUTE RESPIRATORY SYNDROME— WORLD HEALTH ORGANIZATION CRITERIA FOR EXPORTING DISEASE

Hon. Wilbert J. Keon: Honourable senators, my question is for the Leader of the Government in the Senate and deals with the SARS outbreak in the Toronto area. Toronto is now reporting 54 active, probable cases of SARS, which surpasses the benchmark of 60 set by the World Health Organization as part of the criteria it uses to issue a SARS-related travel advisory. The WHO has said that it has not decided to reissue the Toronto advisory, but it was concerned about reports that the city may be exporting cases of the disease. Although that could be a reference to the rumour that a case has been exported to Philadelphia, it may also refer to the five cases of SARS that have been reported in Parry Sound, Ontario, which have been traced back to the cluster in Toronto.

Could the Leader of the Government in the Senate tell us if Health Canada understands the WHO criteria for exporting cases solely based on exporting cases to other countries, or are cases exported from Toronto to other Canadian cities also included?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, my understanding is that the WHO comments related to SARS cases that were exported from Canada as a whole.

Having said that, this causes grave concern because we understand that containment is absolutely critical. Therefore, two individuals from Parry Sound have now been placed in Toronto hospital settings where they have the appropriate models of care.

As the honourable senator knows, at its regular Tuesday meeting yesterday, the WHO decided not to issue a travel advisory against Toronto. They have three criteria. The first is the number of 60, which unfortunately we have gone slightly over. The second is whether it is in the community, in the sense that it has spread outside the cluster of health care workers. To date, it has not spread outside the cluster of health care workers. Every case has been traced back to the original source, that is, the workers. The third criterion is the one that the honourable senator addressed, which is the issue of whether someone infected with the SARS virus has left the country. There is no proof that, since the first cluster of cases, anyone infected with the SARS virus has left Canada. As a result, WHO has maintained its position not to issue a travel advisory.

I should also inform the senator, because I think this is of critical importance to all of us, that there is now daily contact between the Department of Health and WHO. Should WHO, this time, move to take further action, they will inform the Department of Health before they take the action so that a defence to that proposed action can be put before and not after the fact, which was the case when the first cluster of cases occurred.

Senator Keon: Thank you. That is commendable, and I am sure it will improve the situation a great deal.

SEVERE ACUTE RESPIRATORY SYNDROME— SCREENING OF TRAVELLERS LEAVING FROM PEARSON INTERNATIONAL AIRPORT

Hon. Wilbert J. Keon: Honourable senators, the World Health Organization Web site is still recommending exit screening for air travellers leaving Toronto for international destinations, which would include mandatory interviews at check-in counters. Health Minister Anne McLellan has said that some airlines have been more cooperative than others in conducting these screening interviews. I must say, having been through the Toronto airport twice in the last two days, that I do not envy the problem this creates for the authorities.

Could the Leader of the Government tell us if the government could take some action to force all airlines at Pearson to conduct this screening with their international passengers?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the minister has indicated that some officials were easier to convince than others. I understand that they are all convinced that these interviews may take place.

A passenger will go through a number of stages when exiting the country. The passenger will be asked questions posed by the agents of the airlines. Three essential questions will be put. If a passenger answers "yes" to any one of those questions, he or she will then be interviewed by a nurse stationed at the airport. If the passenger shows any signs of infection, the appropriate steps that were already in place, and which continue to be in place, will be taken. The safeguards in the system have been increased since the onset of cluster number two. Hopefully, it is now fully in place and fully active.

CITIZENSHIP AND IMMIGRATION

AUDITOR GENERAL'S REPORT— MEDICAL SURVEILLANCE OF IMMIGRANTS

Hon. Brenda M. Robertson: Honourable senators, in a status report released last week, the Auditor General expressed concerns over inadequacies in the medical surveillance of immigrants to Canada. At present, the Department of Citizenship and Immigration does not know what percentage of immigrants comply with medical surveillance requirements for diseases such as inactive tuberculosis and within what time frame they do so. There is also no set time frame among the provinces for conducting medical evaluations on refugee claimants. In Quebec, it is five days, but in Ontario, it is 60 days. As we have seen by the crisis created by SARS in Toronto, it is crucial that we be vigilant in tracking and treating diseases brought into this country from elsewhere and do so in as expedient a manner as possible.

My question for the Leader of the Government in the Senate is simply this: Is the Department of Citizenship and Immigration working on creating guidelines for the timely evaluation and notification of immigrants of their health problems and their subsequent compliance with reporting to public health officials?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, it is important that we be clear on what the process is now. There is a difference at the present moment between the process for immigrants and the process for refugees. Immigrants are examined prior to their arrival in Canada.

• (1350)

When they arrive in Canada and the indications are that they have inactive tuberculosis, for example — and "inactive" is the important word here — the provinces are then notified that those individuals have entered the immigration community.

What seems to be much more problematic and something that the department has agreed, as a result of the Auditor General's report to investigate immediately and put into place, is that the refugees, who had no examination prior to coming into this country, were not receiving that examination until after they had been accepted as a refugee. Clearly, since these people, for the most part, are not incarcerated but out in the community, it is important that their examinations and any necessary treatment take place immediately. The department recognizes that that area

is not receiving the attention it requires, and they are addressing it.

Senator Robertson: Honourable senators, the minister has answered part of my second concern, but not totally. The status report also revealed that after a medical exam is conducted on a refugee claimant, immigration department officials do not currently notify either the claimant or the public health authorities in their province or territory that the individual requires medical surveillance, unless that claimant applies for a work or study permit, not when the refugee achieves citizenship status. The claimant could be a Canadian citizen. Until they apply for a study or a work permit, nothing is done with their medical surveillance.

I should like the Leader of the Government in the Senate to be clearer on this matter. We want to know if the federal government is working with the provinces to create a medical notification process for immigration officials to follow, something that is specific and accurate. The process is all over the map right now. The situation is not just what the honourable leader said, but it is in addition to that. I would like to have an answer that would clear that up.

Senator Carstairs: I do not think Senator Robertson is quite clear regarding the fact that they could be citizens. They cannot apply for citizenship until they have had a formal acceptance of their refugee claim. At the formal acceptance of their refugee claim, the notification is made.

The problem is the time between when they arrive in the country and ask to be a refugee and when they have been told that their refugee claim has been accepted. That is the area of concern right now. Senator Robertson is quite right that it is of genuine concern. The department is working with the provinces to ensure that there is a quicker notification system, particularly for two diseases — tuberculosis, which is inactive, and syphilis.

Senator Robertson: What is the average waiting time for a refugee to become a Canadian citizen? Could the minister give me an average so that we might better identify the exposure?

Senator Carstairs: I do not have that exact figure with me. I think it is in the range of three to five years at the present time. There is a significant gap that needs to be addressed.

FOREIGN AFFAIRS

STUDY ON TRADE RELATIONSHIPS WITH UNITED STATES AND MEXICO— TABLING OF FINAL REPORT

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, my question is for the Chair of the Standing Senate Committee on Foreign Affairs. Honourable senators will recall that, on November 21 last, this house passed an order of reference for the Foreign Affairs Committee to conduct a review of the NAFTA and the FTA. Could the Chair of the Foreign Affairs Committee give an indication to the house as to whether the hearings of the committee have been proceeding and when we might expect to have a report from the committee?

Hon. Peter A. Stollery: Honourable senators, yes, our hearings have proceeded. The committee has had 25 or 26 meetings with a great variety of witnesses. We have heard wonderful witnesses from Vancouver, Calgary, Winnipeg, Ottawa and the Atlantic provinces.

At this moment, we are finalizing our report. I believe we are reviewing the third draft. I have every hope that, with the cooperation of members of the committee, we will be able to table our report by next week. At least that is our goal. However, as honourable senators know, there are always bureaucratic elements in reports, such as translation, editing and things of that nature. We are in the final stages.

Senator Kinsella: I thank the Chair of the Foreign Affairs Committee for that information. I am sure all honourable senators look forward to receiving a tabled copy of the report of the study on the NAFTA and the FTA.

If it is not considered premature, I noticed, in reading the transcript of one of the sessions, that the Honourable Minister Pettigrew appeared. If I read correctly the minutes of the committee, Mr. Pettigrew praised the Foreign Affairs Committee for conducting this review; is that correct?

Senator Stollery: Honourable senators, the minister was complimentary about our hearings.

We heard from Professors Helliwell and Harris in Vancouver, two of the most prominent people in the country on the Free Trade Agreement. As every honourable senator is aware, I believe this is the fourteenth or fifteenth anniversary of the FTA and the tenth anniversary of the NAFTA. I think there will be a significant amount of information in our report, of great interest not only to members of the Senate but to members of the Canadian public at large.

HUMAN RESOURCES DEVELOPMENT

BOVINE SPONGIFORM ENCEPHALOPATHY— AID TO BEEF INDUSTRY WORKERS

Hon. Douglas Roche: Honourable senators, my question, directed to the Leader of the Government in the Senate, concerns the crisis in the beef industry, in particular as it affects Alberta.

I am sure the minister will be aware that another 650 Alberta cattle will be slaughtered and tested for mad cow disease, bringing to almost 2,000 the number of slaughtered cattle. Fifteen farms in Alberta, Saskatchewan and British Columbia remain under quarantine, which is enlarging the number of unemployed, a situation that is compounded by the border still being closed. There is no sign of it being reopened. There is some modest pressure within the United States not to open it for some time to come.

This brings me to the question of assistance for the 500 to 1,000 workers in Alberta who have already been laid off. Recognizing that the Government of Canada does not want to waive the two-week waiting period for Employment Insurance, can the minister state if there are discussions or negotiations underway in which there would be a package of aid provided not just to these workers that I have named but, by extension, to a wide milieu of workers in associated fields who will experience economic setbacks by the continuation of this crisis? Is there some sort of package that the federal government will participate in, if not actually lead, to provide that help?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I can tell the honourable senator that he is quite correct. The two-week waiting period for EI has not been waived, in the same way that it is not waived for any other industry that has a shutdown. Some people are comparing this with the waive that occurred in the SARS situation, where we were dealing with a health emergency. People who had to remain within their homes were therefore ineligible to seek work under any circumstances. As well, we wanted the added incentive of their remaining within the quarantine that had been imposed upon them.

• (1400)

In terms of other assistance programs, it is too early to talk about specific assistance programs, just as the assistance programs for SARS are beginning to unfold. Similarly, the assistance programs announced yesterday for the fishery in Newfoundland took some time before the full extent of the problem could be identified. However, I can assure the honourable senator that ministers are working on plans with respect to this industry.

HRDC has made it very clear that it will use the EI system in innovative ways, if it is possible. As of today, three applications have been received by HRDC and approved for work sharing in the province of Saskatchewan so that people who may have been laid off can maximize their working opportunities and also their benefits with others in the community. Those programs are already in place.

As to the long-term assistance, as the honourable senator indicated, the border being open is the most important issue. The sooner that border is open, the less assistance will be required. Opening the border must remain the absolute focus of the government. However, I want to assure the honourable senator that ongoing considerations are being given to the other problems.

VISITORS IN THE GALLERY

The Hon. the Speaker pro tempore: Before I recognize Senator Roche, I wish to draw the attention of honourable senators to the presence in the gallery of delegates from the Bahrain Legislators' Study Mission.

Hon. Senators: Hear, hear!

[Translation]

On behalf of all the senators, I welcome you to the Senate of Canada.

I also wish to draw to your attention the presence in the gallery of Guy Lafleur, the guest of Senator Mahovlich. On behalf of all the senators, Mr. Lafleur, I welcome you to the Senate of Canada.

[English]

HEALTH

BOVINE SPONGIFORM ENCEPHALOPATHY— NATIONAL INSPECTION AGENCY FOR BEEF INDUSTRY

Hon. Douglas Roche: Honourable senators, I thank the minister for her answer. I would ask her if she would carry forward to the cabinet the humanitarian considerations with respect to helping people affected by this crisis, the humanitarian considerations that I normally associate with the minister's representations.

I turn now to a second major issue concerning this crisis. At the heart of the crisis is the dual system of inspection that pertains in the beef industry. A slaughterhouse, under provincial jurisdiction, inspected the cow that had mad cow disease because it was not intended for export beyond the province, whereas cattle destined for consumption outside any province are subject to federal inspection. Perhaps it is time to review this duality. Is the government giving consideration to one national inspection standard that would involve federal-provincial cooperation and that might obviate this kind of crisis down the line?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I thank the honourable senator for that question. As he knows well, because he has described it, the field of agriculture is a joint responsibility of the federal and provincial governments. Clearly, the provincial governments would have to agree to any system of national standards that would be enforced. However, I can assure him that at the federal level the Minister of Agriculture will be having those discussions. It would not be necessary for the federal government to do the inspections. They could continue to be done at the provincial level, but it would be extremely useful that the standards be national, accepted by all provinces and territories as well as the federal government. As a result of this case, those discussions will take on an urgency. There have been discussions in the past, but to be fair, there has been no emergency. Now there is.

HERITAGE

ALLOCATION OF FUNDS FOR CANADA DAY CELEBRATIONS

Hon. Gerry St. Germain: Honourable senators, my question is to the Leader of the Government in the Senate and relates to e-mails I have been receiving from Western Canada concerning the allocation of federal funding for Canada Day celebrations. I do not have any documents; I have just been receiving e-mails from irate westerners. Of the \$8.3 million, apparently 5.4 went to Quebec; Alberta received 6 per cent, and B.C. 4 per cent. Is this correct?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, yes, it is correct and it is a direct reflection of a higher proportion of applications that came from the Province of Quebec for funding for its activities. Unfortunately, for whatever reason, perhaps those other events did not actually make applications, which I know were held in Western Canada because all applications, if they met the criteria, were provided with funding. The vast majority of applications celebrating Canada Day and related days, which also include National Aboriginal Day, came from the Province of Quebec.

Senator St. Germain: Honourable senators, I have been involved with Canada Day celebrations in Langley, which have grown from a couple of hundred people to thousands of people. I do not think it is a question of not applying. The question we have, as westerners, is that requests are submitted for funding and are generally reduced to a percentage of the requested amount. Do the same rules apply out West as they do in Central Canada? It concerns Western Canadians that B.C. would only receive 4 per cent of the total funding. I know that there are huge Canada Day celebrations in the region I represent, and I know that, on occasion, applications have been made for \$100,000, to use a figure, and that the funding received is maybe \$15,000 or \$30,000. Do we receive the same percentage as do the other provinces?

Senator Carstairs: The amount of money received is a direct result of the application that is made in terms of the criteria, which are established straight across the country. They are identical. There is no variation from province to province.

[Translation]

The Hon. the Speaker *pro tempore*: Honourable senators, the time allocated to question period has expired.

ANSWERS TO ORDER PAPER QUESTIONS TABLED

HUMAN RESOURCES DEVELOPMENT CANADA— OLD AGE SECURITY ACT

Hon. Fernand Robichaud (Deputy Leader of the Government) tabled the answer to Question No. 111 on the Order Paper—by Senator Stratton.

HERITAGE—RECOGNITION OF HERITAGE BUILDINGS

Hon. Fernand Robichaud (Deputy Leader of the Government) tabled the answer to Question No. 112 on the Order Paper—by Senator Stratton.

HERITAGE—NATIONAL PARKS ACT AND NATIONAL MARINE CONSERVATION AREAS ACT

Hon. Fernand Robichaud (Deputy Leader of the Government) tabled the answer to Question No. 113 on the Order Paper—by Senator Stratton.

HERITAGE—
LIBRARY AND ARCHIVES OF CANADA BILL

Hon. Fernand Robichaud (Deputy Leader of the Government) tabled the answer to Question No. 115 on the Order Paper—by Senator Stratton.

VETERANS AFFAIRS—ALTERNATIVE FUELS ACT

Hon. Fernand Robichaud (Deputy Leader of the Government) tabled the answer to Questions Nos. 71 and 72 on the Order Paper—by Senator Kenny.

FOREIGN AFFAIRS—ALTERNATIVE FUELS ACT

Hon. Fernand Robichaud (Deputy Leader of the Government) tabled the answer to Question No. 85 on the Order Paper—by Senator Kenny.

REVENUE CANADA—
MEDICAL EXPENSES OF DISABLED

Hon. Fernand Robichaud (Deputy Leader of the Government) tabled the answer to Question No. 123 on the Order Paper—by Senator Kinsella.

[English]

CANADIAN ENVIRONMENTAL ASSESSMENT ACT

BILL TO AMEND—
REPORT OF COMMITTEE PRESENTED

Leave having been given to revert to Presentation of Reports from Standing or Special Committees:

Hon. Tommy Banks, Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

Wednesday, June 4, 2003

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

EIGHTH REPORT

Your Committee, to which was referred Bill C-9, *An Act to amend the Canadian Environmental Assessment Act* has, in obedience to the Order of Reference of Tuesday, May 13, 2003, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

TOMMY BANKS
Chair

• (1410)

LABOUR SHORTAGES IN SKILL TRADES

NOTICE OF INQUIRY

Leave having been given to revert to Notices of Inquiries:

Hon. Catherine S. Callbeck: Honourable senators, pursuant to rule 57(2), I give notice:

That, on Monday next, June 9, 2003, I will call the attention of the Senate to the crisis of increasing labour shortages in the skill trades.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I understand that, if the government side will agree, as a courtesy to our colleague Senator Andreychuk, we will deal with the matter to which she wishes to speak first.

[Translation]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, we agree that Item No. 108 on the Orders of the Day be dealt with now, to accommodate certain senators.

[English]

HUMAN RIGHTS

COMMITTEE AUTHORIZED TO STUDY LEGAL ISSUES
AFFECTING ON-RESERVE MATRIMONIAL REAL
PROPERTY ON BREAKDOWN OF MARRIAGE
OR COMMON LAW RELATIONSHIP

On the Order:

Resuming debate on the motion of the Honourable Senator Maheu, seconded by the Honourable Senator Bacon:

That the Standing Senate Committee on Human Rights be authorized to examine and report upon key legal issues affecting the subject of on-reserve matrimonial real property on the breakdown of a marriage or common law relationship and the policy context in which they are situated.

In particular, the Committee shall be authorized to examine:

- The interplay between provincial and federal laws in addressing the division of matrimonial property (both personal and real) on-reserve and, in particular, enforcement of court decisions;

- The practice of land allotment on-reserve, in particular with respect to custom land allotment;
- In a case of marriage or common-law relationships, the status of spouses and how real property is divided on the breakdown of the relationship; and
- Possible solutions that would balance individual and community interest.

That the Committee report to the Senate no later than June 27, 2003;

And on the motion in amendment of the Honourable Senator Carney, P.C., seconded by the Honourable Senator Keon, that the motion be amended in the first paragraph thereof by replacing the words "Standing Senate Committee on Human Rights" by the words "Standing Senate Committee on Aboriginal Peoples"; and

That the reporting date be no later than March 31, 2004 rather than June 27, 2003.—(*Honourable Senator Andreychuk*).

Hon. A. Raynell Andreychuk: Honourable senators, I thank you for the privilege of being allowed to speak first this afternoon. I will not take more than a few minutes of your time.

This motion that seeks to authorize the Standing Senate Committee on Human Rights to study legal issues affecting on-reserve matrimonial real property on the breakdown of a marriage or a common-law relationship. This is not a new issue. The Senate has, in many ways and at various times, pointed out the difficulties with marriage and common-law relationships on-reserve. In fact, the government has, on a number of occasions, indicated that it would deal with this issue.

This motion raises the fundamental issue of how to harmonize the collective rights of Canada's Aboriginal peoples as set out in section 25 of the Canadian Charter of Rights and Freedoms and section 35 of the Constitution Act, 1982 with the right to equality owed to all Canadian women and men as protected by section 15 of the Charter.

In the context of the present debate, I want to commend Senator Rossiter for her detailed analysis and her reasoning behind supporting the amendment and, in fact, for raising other options.

While I can support the amendment and, perhaps, some other option in regard to this matter, I simply wanted to put on the record that this is not the time to continue our study of this issue. In fact, this problem is well recognized. The legal issues have already been studied and identified, and human rights aspects have been identified. Therefore, it is time to act, not to study.

To make my point, I will put on the record a few examples of the studies that have been undertaken to date. Those are, first, the report of the Royal Commission on Aboriginal People, 1997; second, a discussion paper entitled "Matrimonial Real Property On-Reserve," November 28, 2002, prepared by Cornet Consulting and Mediation, which company, I believe, was

engaged by the Government of Canada; third, "Where Are the Women," the report of the Special Representative on the Protection of First Nation Women's Rights, January 12, 2001; fourth, an article entitled "Home-land" by Mary Ellen Turpel, 1991, in volume 18 of the *Canadian Journal of Family Law*, at page 17; and, fifth, in 1998, the report of the United Nations Committee on Economic, Social and Cultural Rights noted, with concern, Canada's failure to ensure equal protection of the law between Aboriginal and non-Aboriginal women in respect of matrimonial real property. That is discussed at page 7 of the discussion paper, "Matrimonial Real Property On-Reserve."

Honourable senators, I could point to many more articles and reports, both from the Aboriginal community and the Government of Canada. It occurs to me that this is not the time to study. We have the facts. As I have indicated, it is not a legal issue. The legal issues are identified and the consequences of legal positions are known. It is well documented that there is a violation of human rights. There is not equal protection for women on-reserve compared to those off-reserve.

It has been acknowledged by native leaders that this is one issue they will address, including in the Nisga'a negotiations. The chief, when he came here, said he would address this issue. In my own province, the Aboriginal people have noted this issue, as has the Government of Saskatchewan.

When we were studying Bill C-23 in the Legal Committee, it was noted that it was time to act. There was an undertaking at that time that the government would proceed quickly and that we would look to the Aboriginal community. Therefore, I am puzzled and perplexed and perhaps somewhat distressed that we will delay efforts to defend this fundamental human right. There is nothing more to study. It is time for the political will to act. I think all of us have a fiduciary responsibility not to further delay action. Surely the government has the information.

If the government is not sure about a process and how to deal with the Aboriginal leaders on this issue, it would seem to me that only the Aboriginal Committee would be able to elicit the kinds of witnesses and give that kind of advice. I believe, even in that forum, that advice has been given directly to the government by the Aboriginal leaders. I would urge this chamber not to study further, but to recognize and give full effect to our Charter of Rights and Freedoms, and to give the Aboriginal women and men on-reserve the same treatment as those of us who are not on-reserves.

[*Translation*]

Hon. Gérald-A. Beaudoin: Honourable senators, I think that there should not be a study on this issue, for the reasons cited by my colleague. The issue of gender equality has been studied at length. In addition to section 15 of the Charter of Rights and Freedoms, section 28 also says quite plainly that, notwithstanding everything the Charter of Rights and Freedoms contains, rights must apply equally to men and women.

This is very much the case in constitutional law. I feel that we need not study it any further.

• (1420)

I have always held the opinion, both in the Senate and at the Human Rights Committee, that if this motion were referred to a committee, it should be the Senate Standing Committee on Aboriginal Peoples. Senators could get involved in this committee's work. For this reason, I fully support the comments made by the honourable senator on this very point.

[English]

The Hon. the Speaker: Is the house ready for the question?

Hon. Senators: Question!

The Hon. the Speaker: We are on the amendment of Senator Carney. Is it your pleasure, honourable senators, to adopt the motion in amendment?

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker: I will put the question in a formal way, honourable senators.

Those in favour of the motion in amendment will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: Those opposed to the motion in amendment will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the "nays" have it. The motion in amendment is lost, on division.

Is the house ready for the main question?

Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: I will put the question formally.

Those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: Those opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the "yeas" have it. The motion is passed.

Senator Lynch-Staunton: On division.

Motion agreed to, on division.

BUDGET IMPLEMENTATION BILL, 2003

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Robichaud, P.C., for the second reading of Bill C-28, to implement certain provisions of the budget tabled in Parliament on February 18, 2003.

Hon. Roch Bolduc: Honourable senators, Bill C-28 on budget implementation is an omnibus bill of some 135 pages. I will touch briefly on key elements of this bill that for the most part deal with measures announced in last February's budget.

[Translation]

First, it confirms that the new Minister of Finance studied at the same school of accounting as the previous one. We are again being asked to approve spending that has been accounted for in a previous fiscal year, so the government will not spend one cent this year or next year, and in some cases, for ten years.

Bill C-28 includes spending \$1.5 billion for a trust fund for diagnostic and medical equipment, an amount that will appear in last year's books. In 2000, money set aside for a similar trust ended up being used to buy lawn mowers. The government promised safeguards to prevent this type of situation from reoccurring. We will be keeping an eye on the government, in this regard.

[English]

Bill C-28 allows the government to provide grants of up to \$250 million to the Canada Foundation for Sustainable Development Technology; \$50 million to the Canadian Foundation for Climate and Atmospheric Sciences; \$600 million to the Canada Health Infoway Inc.; \$25 million to the Canadian Health Services Research Foundation; \$70 million to the Canadian Institute for Health Information; \$500 million to the Canada Foundation for Innovation; and \$75 million for Genome Canada.

With the exception of the payments to the Canada Foundation for Sustainable Development Technology, everything is to be booked to 2002-03. Magically, the net accounting result is to whittle down last year's surplus to zero.

The Auditor General raised several concerns regarding the use of foundations in her April 2002 report. In response to one of her concerns, Bill C-28 does require that, should they ever be wound down, any unspent funds be returned to the government from the Canada Foundation for Innovation, the Canada Millennium Scholarship Foundation and the Canada Foundation for Sustainable Development Technology. That should have been part of the criteria from day one.

However, the government has rejected her concerns about how it accounts for payments to the foundations. It prefers to keep cooking the books.

[Translation]

Bill C-28 contains two measures that relate to employment insurance.

First, it provides for the payment of new benefits during a maximum of six weeks to people providing care to a seriously ill family member expected to die within 26 weeks. We welcome this measure warmly.

Second, Bill C-29 sets the EI contribution rate for 2004 at \$1.98. This is the third year in a row that the government has ignored the requirement that the condition of the employment insurance account be considered before the contribution rate is set.

The government claims that the \$1.98 rate represents the break-even point for 2004, that is, the difference between what it costs and what is spent. It is, in fact, a reduction in benefits. It is correct only if we do not take into account the interest on the surplus in the EI fund; if we did, the contribution rate would be closer to \$1.75, all of 20 cents less.

The government continues to maintain premiums at an artificially high level, which keeps the cumulative EI surplus growing.

The government believes that setting the rates by legislation for yet another year will give it the time to hold consultations on setting the rate in future years, even though it seems to have already decided to simply ignore the surplus in the EI account. The government has been studying this measure for four years now and apparently further study is needed. It appears to be very complicated. And yet a number of actuaries have already answered the question.

Honourable senators, three years ago, the government has taken upon itself to set the annual contribution rate, something that used to be done to the Employment Insurance Commission, an independent body. It justified this by saying that it wanted to study the method for setting the rate. How much longer will it study the matter?

I cannot see it as anything but a delaying tactic designed to allow the government to accumulate funds under the employment insurance program, while it tries to find a legal way to hang on to the \$50 billion it has taken from Canadian workers and employers.

Also, honourable senators, Bill C-28 increases federal transfer payments.

In 1993, the federal government made transfer payments of approximately \$19 billion in cash to the provinces under the Canada Assistance Plan, also called established programs financing. Paul Martin merged these two programs into a single Canada Health and Social Transfer, and he cut total transfer payments by \$12.5 billion in 1996.

[Senator Bolduc]

Despite the surpluses announced since 1997, it was not until 2002 that the transfer payments were higher than they had been when the current government came to power. For nine years, the federal government slashed transfer payments to the provinces, which then had to cut health services by forcing doctors, nurses and other health care professionals into retirement, for instance. Patients were then faced with growing waiting lists.

The purpose of this bill is to split the CHST into two separate transfer payments and to create a health care reform fund, so that transfer payments will reach \$28 billion in 2007.

This is approximately the amount that transfer payments would have been if they had, back in 1993, simply been indexed to inflation and population growth.

Furthermore, while the government is busy congratulating itself in this budget and telling us how much it intends to spend in each fiscal year until 2010, it has no mandate past 2007. This bill makes no long-term commitments in health and education. The provinces, which are already making substantial arguments about their fiscal capacity, could well find themselves high and dry in five years.

In the meantime, the Prime Minister is lecturing the President of the United States.

• (1430)

Bill C-28 also removes the ceiling on equalization payments to the provinces. If the rumours are true and the Prime Minister is thinking about proroguing Parliament in the fall, and if the new Prime Minister intends to call an election shortly after being chosen, it might be good to remember that the Equalization Program will expire next March 31, unless Parliament passes legislation to renew it.

[English]

Bill C-28 reduces the air travellers' security charges to \$7 from \$12 for domestic travel.

This tax was announced in 2001 to pay for airport security. It has been controversial from day one, both because of its impact on air travel, and because the government is reluctant to give us any accounting of how the money is being spent. Nothing in this bill will force the government to give us that proper accounting.

Bill C-28 will increase the National Child Benefit Supplement paid to low-income families by up to an additional \$185 per child, reaching more than \$5,000 for a low-income family with three children. This is in addition to the Canada Child Tax Benefit. As you can see, I am an objective man, and I have always been an objective man.

Bill C-28 will also create an annual Child Disability Benefit of \$1,600 per child for low-income families with disabled children. The first payment of the child disability payment will not actually be made until March 2004, at which point those who are eligible will receive benefits retroactive to July 2003.

The government says that this nine-month payment delay is due to the Canada Customs and Revenue Agency needing time to set everything up. However, by coincidence, there may be an election called around March of 2004.

It is not difficult to imagine the advertising campaign that will accompany the issuance of the first cheques which, because they will be retroactive, will be for about \$1,200. Do honourable senators remember, as I do, the conception of family allowances in 1945? Mackenzie King went to Quebec City and won the whole province with that promise. This is what we call "achat de vote."

I would draw to your attention two details about these credits. First, there is a little matter of accounting. While the government says that this represents tax relief, the Auditor General is adamant that payment of this kind of expenditure ought to be booked as increased spending rather than as reduced revenue. There is a big difference between those two. Second, to make the benefits as generous as possible, the government claws them back as stiffly as possible, as much as one-third if you have three or more children.

When you start to combine this bill with all other taxes and clawbacks faced by low- and modest-income Canadians, the result can be bizarre. In most cases, the rather stiff clawbacks that accompany the Child Benefit Supplement and the Child Disability Benefit mean that they are no longer a benefit by the time a family reaches the middle-income bracket. This means that they are gone by the time the government starts clawing back the other income-tested benefits available under the GST credit and on the regular Canada Child Tax Benefit. That is not the case if one of your three children is disabled. It is not the case if you have four or more able-bodied children.

To provide the Leader of the Government with an illustration, consider the case of a single mother in her home province of Manitoba, with three children, of whom two are disabled. She makes \$35,000 a year and is given the chance to earn an extra \$1,000. On that \$1,000, she will pay federal taxes of \$220, provincial tax on taxable income of \$149. Her Manitoba family tax reduction will be clawed back \$10. Her GST credit will be clawed back \$50. Her National Child Benefit and the Child Disability Benefit will be clawed back \$321. Her Canada Child Tax Benefit will be clawed back \$50 while, net of the federal and provincial tax credits, she will pay \$15 in EI premiums and contribute \$36 to the CPP. This all adds up to \$851, an effective marginal tax rate of 85 per cent. That is what it is.

Some Hon. Senators: Oh, oh!

Senator Bolduc: We call that compassionate government. How about that?

Some Hon. Senators: Hear, hear!

Senator Bolduc: If she has to pay child care, it will cost her money to work. Where is the incentive to work and to improve your personal standard of living in all of this? What is the social justice of an 85 per cent tax rate at \$35,000 of income? What is the logic of it?

Bill C-28 will undo a March 2002 court decision that extended the disability tax credit to those who spend an inordinate amount of time shopping or preparing food because of a dietary condition. I would not be surprised if we receive representation about this in committee.

Under existing legislation, the dollar limit for RRSPs was to rise from \$13,500 this year to \$15,500 in 2005. Instead, Bill C-28 raises the limit to \$18,000, with future years to be indexed.

The RRSP limit was already \$15,500 before Paul Martin reduced it to \$13,500 in his 1995 budget. Without that reduction, indexing would have brought the limit to \$18,000 by 2006 in any event. What we are really doing in this bill is undoing Mr. Martin's budget change of eight years ago.

There is no change in the rule that limits contributions to 18 per cent of earned income. As such, there has been criticism that the \$18,000 annual limit will only apply to those with incomes above \$100,000.

There are several relieving tax measures in this budget that are, of course, welcome, including the capital gains rollover, the list of medical expenses, RRSP rollovers, the reduction in the small business tax rate, the elimination of capital tax, the mineral exploration tax credit, and an increase in the film or video production service tax credit.

This tax relief, however, is somewhat limited and does nothing to lower taxes for middle-income Canadians.

[Translation]

Bill C-28 also makes a few changes to the excise tax and the sales tax. I would like to say a few words about one of the changes.

A few years ago, a court ruled against the government in the matter of GST rebates for the provision of school transportation services. The explanation is very technical, but I will do my best to simplify it.

It was a question of determining whether there should be full GST rebate because school transportation services are taxable, or a 68 per cent rebate, which is the rate for organizations that provide public services.

A group of 29 school boards in Quebec challenged the 68 per cent rebate. The Federal Court ruled unanimously in their favour in the case that is now known as the *des Chênes* case.

Many other school boards, not only in Quebec, but also in Ontario, Manitoba and the Maritime Provinces waited to see how the *des Chênes* case would unfold before initiating their own legal challenges.

Once the Federal Court had ruled, the other school boards filed suit against the government, who submitted that the facts were not what the school boards had presented. An out of court settlement was reached in good faith whereby the second group of school boards would benefit from the same advantages as the first, provided the facts were the same. The case was never brought before the Federal Court. However, a settlement was reached by the government and the government lawyers, who said this was manageable.

A few weeks later, the last Friday before Christmas 2001, the government announced that it would pass legislation confirming that a full rebate would apply only to cases that had been decided in Federal Court — too bad for the others. Average Canadians believe the government. I have worked with many businessmen and when they dealt with government officials, they took their word. Sometimes the government retracts. This is rather unseemly, and it makes people cynical.

Moreover, the government announced that the legislation would apply retroactively to 1990, when the GST was implemented, so that no one else can take advantage of a full rebate.

• (1440)

Honourable senators, this measure raises some serious problems. These will, of course, be studied in committee, but this measure makes no sense, in my opinion. I have examined the issue closely. We have some very good lawyers — including a former Liberal Finance Minister — who will be presenting a brief.

The school boards with which the government had negotiated a settlement are not targeted by Bill C-28. This legislation clearly indicates to anyone intending to negotiate a settlement with the government on anything to do with taxes to just forget it; the government might very well not negotiate in good faith; it is preferable to go to court and obtain a ruling there.

As well, we are going to create different taxation rules for different school boards, regardless of whether or not they were covered by the 1991 ruling on a tax case. This is an aberrant lack of consistency as far as tax policy is concerned.

In my opinion, certain persons in the Department of Finance wanted to take a shortcut in the name of efficiency. How ridiculous, to save a few million dollars but end up with a whole series of public bodies and elected representatives in Quebec, Ontario, the Maritimes and Manitoba on your back. I find this action somewhat ill-advised.

This is clearly a bureaucratic mistake. I doubt that the minister is responsible. He does not have the time to deal with this kind of problem. This bureaucratic mistake must be corrected.

In the Senate, we are not in a position to change the budget. However, we can vote with sufficient force so that the House of Commons does rectify the situation.

[Senator Bolduc]

When the government announces a change to tax law, this change usually enters into force on the date on which or in the year in which it is proclaimed. Here, we are being asked to pass legislation that will be retroactive as far back as thirteen years.

Upon closer examination, the minister, a trained lawyer, will very quickly realize that this measure must be changed.

In the past, the Honourable Minister MacEachen was able to make some fifteen amendments to his budget. I presume that the Honourable Minister Manley can do the same.

What should we expect from now on? Should we expect to see retroactive changes to the Income Tax Act to account for the 1971 Benson reforms? Should we expect changes to the Act dating back to 1917, during the First World War? Anything is possible.

[English]

Honourable senators, Bill C-28 eliminates the Debt Servicing and Reduction Account, meaning that it will no longer be law that all net GST monies go toward debt servicing and reduction. I seem to recall that the government came to office promising to scrap the GST, not the Debt Servicing and Reduction Account.

Finally, in this vein, I would like to point out that the tax reduction that we have seen to date has largely been by accident. It was not planned. Indeed, it is due entirely to the \$50 billion the government has collected in extra payroll taxes and to the cumulative total of more than \$20 billion that Paul Martin took out of the transfers to the provinces.

Senator Robichaud: It was good management.

[Translation]

Senator Bolduc: It is not partisan.

[English]

The Hon. the Speaker: Is the Senate ready for the question?

Hon. Senators: Question.

The Hon. the Speaker: It was moved by the Honourable Senator Carstairs, seconded by the Honourable Senator Robichaud, that this bill be read the second time now. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I move that Bill C-28 be referred to the Standing Senate Committee on National Finance.

Hon. Lowell Murray: If this motion passes, honourable senators, the Standing Senate Committee on National Finance will meet to study this bill Tuesday next at 9:30 a.m. and again on Wednesday at 6:15 in the evening. In anticipation of this decision, we have already given a tentative advisory to the witnesses who will be coming.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

LEGAL AND CONSTITUTIONAL AFFAIRS

MOTION TO AUTHORIZE COMMITTEE TO STUDY INCLUDING IN LEGISLATION NON-DEROGATION CLAUSES RELATING TO ABORIGINAL TREATY RIGHTS—DEBATE ADJOURNED

Hon. Sharon Carstairs (Leader of the Government), pursuant to notice of June 3, 2003, moved:

That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to examine and report on the implications of including, in legislation, non-derogation clauses relating to existing aboriginal and treaty rights of the aboriginal peoples of Canada under s. 35 of the *Constitution Act, 1982*; and

That the Committee present its report no later than December 31, 2003.

She said: Honourable senators, I am delighted today to propose this motion because it is this chamber at its committees that have provided a forum for many discussions and debates on non-derogation.

Over the last couple of years, discussion on non-derogation was specific to a particular piece of legislation being examined. I believe it is now time to remove this discussion from debate on a bill and let it stand alone for debate on its own merits.

The Senate has a long history of examining non-derogation clauses — their inclusion and exclusion and the subsequent effect in a particular bill. Given the frequency of our discussions on this issue, I am pleased to affirm that the government supports a broadened discussion of the whole of the non-derogation clause. To that end, I am proposing that the Standing Senate Committee on Legal and Constitutional Affairs be authorized to examine the effect of including non-derogation clauses in legislation.

Existing Aboriginal and treaty rights of our Aboriginal people are protected under section 35 of the *Constitution Act, 1982*. The concern that has been consistently raised is the need to find language that reminds the court that simple legislation is subordinate to section 35.

There are multiple versions of non-derogation clauses already in statute. Since 1985, beginning with the Canada Petroleum Resources Act, there have been four different wordings used for non-derogation provisions in federal legislation. This does not include the new wording in Bill C-10B we passed last week.

From 1994 until the present, three different wordings have been used for non-derogation provisions. In 1998, the language of non-derogation clauses was revised, apparently to provide for greater clarity. The so-called new non-derogation clause formulation was supposed to more clearly show that this kind of provision is not to be interpreted as affecting a substantive change to the degree of protection provided by section 35 of the *Constitution Act*, but that it instead should be viewed as declaratory only. This change gave our Aboriginal senators considerable concern, as well as non-Aboriginal senators. It is fair to say that it was the Aboriginal senators who first brought it to our attention.

This chamber has seen senators taking an increasing interest in the non-derogation clause. Since 2001, beginning with Bill C-33, the Nunavut Waters and Nunavut Surface Rights Tribunal Act, senators questioned the wording of non-derogation provisions in federal legislation. In some instances, legislation was amended to remove the non-derogation clause. In others, senators supported the passing of the bill with the clause included. Most recently, the Senate amended, as I indicated earlier, Bill C-10B — cruelty to animals — by adding a provision to the bill that addresses the rights of Aboriginal persons.

Interestingly, this latest development is a completely new approach to this idea of protecting Aboriginal rights in federal statutes. If you will, it is a fifth wording, and perhaps a totally different approach, one that is also worthy of the consideration of the committee.

The committee will be instrumental in finding language that is clear and confirms the principal authority of section 35 of the *Constitution Act*, and serves neither to diminish nor to enhance Aboriginal rights. I hope the Standing Senate Committee on Legal and Constitutional Affairs will study the broad issue of non-derogation clauses and will not be limited to studying the matter solely in relation to a specific bill, as unfortunately has been the case in the past. I am confident that the committee, through this kind of study, will report a solution that satisfies all concerned.

Hon. Anne C. Cools: Would the honourable senator take a question?

Senator Carstairs: Of course.

Senator Cools: I observe that the motion is to refer the subject matter to the Standing Senate Committee on Legal and Constitutional Affairs.

• (1450)

I am also aware that there are no Aboriginal members of the Standing Senate Committee on Legal and Constitutional Affairs. Could the leader tell us if it would be her intention to create, on that committee, a membership spot for an Aboriginal senator?

Senator Carstairs: With the greatest respect and knowing the *Rules of the Senate* as the honourable does, she knows that I cannot create a spot on the committee. It would be my hope that the Aboriginal senators would attend this committee on a regular basis. Should a member be unable to attend a particular meeting, we could replace that senator with one of our Aboriginal senators. Obviously, I cannot replace senators of the other side, nor would I choose to do so.

Honourable senators, if one of our senators chose to step aside for the duration of this study and give his or her place to a member of the Aboriginal membership of the Senate, I would be pleased.

Senator Cools: Honourable senators, it is my experience that the leadership can perform magic in respect of membership on committees. They can make memberships on committees appear, disappear and reappear. If this particular committee does not have as a standing feature membership of our Aboriginal colleagues, perhaps a better technique would be to create a special committee to study the subject-matter that would include, automatically, properly, formally and entirely the Aboriginal members of the Senate.

Senator Carstairs: Honourable senators, Aboriginal senators were consulted on this matter. They chose to have the matter referred to the Standing Senate Committee on Legal and Constitutional Affairs. They recognize the expertise on that committee. They further recognize their right as ordinary senators to attend any committee that they chose to attend.

Senator Cools: Honourable senators, since I wish to participate in this debate, I will ask that the debate be adjourned in my name when honourable senators have completed their questions.

[Translation]

Hon. Pierre Claude Nolin: Honourable senators, I am very interested in this proposal. Our colleagues should understand that every time we are confronted with this issue at the Legal and Constitutional Affairs Committee, our objective is not to reiterate what the Constitution says.

The Constitution Act, 1982 recognizes these rights. The legal profession is always confronted with determining whether we should reiterate what the Constitution says.

Unfortunately, we always come to the following conclusion: that normally, we should not be required to spell it out in legislation. Administrative practice is such that the courts must establish the rights instead of them being recognized from the outset by the administration. We have reached the point where we would like the administration to recognize these rights *a priori* rather than wait for the court to recognize them *a posteriori*.

You are asking whether we should recognize — I want to quote your exact words:

— examine, for reporting purposes, the consequences of inclusion —

I just want to understand if that is really your objective. If the importance of this inclusion is to repeat what the Constitution tells us, that is one thing; the inclusion of this section in a law whose purpose is to ensure that recognition of these rights is taken into consideration by the administration in enforcing the law in question is quite another; Bill C-10B is a very good example of that.

Do you recognize that the administration must take into account the existence of ancestral rights *a priori* rather than *a posteriori*?

A posteriori, we are forcing Canada's aboriginal communities to go back to square one each time. That is especially true for the Métis, because we are only just beginning to recognize their rights. The Supreme Court has been seized with the question of recognizing Métis ancestral rights with regard to hunting, and that is just the beginning. In moving this motion, do you recognize that it is appropriate to include these sections in order to ensure that the ancestral rights of Canada's aboriginal communities are taken into consideration *a priori* when the provisions of specific legislation are enforced?

[English]

Senator Carstairs: I thank the honourable senator for his question. He has identified serious issues. I do not wish to prejudice any of the consequences of the decisions that are made by the committee, however, I can say that some legal experts have indicated that they believe the solution to this is the placing of specific wording, which can be agreed to by our Aboriginal people and non-Aboriginal people alike, in the Interpretation Act, whereby every act must be interpreted in accordance with the wording chosen.

Honourable senators, it is clear to me that there is no sense of comfort among our Aboriginal peoples that section 35 is taken into consideration each time a bill that could impact on the Aboriginal peoples is studied either here or outside of a legislative chamber. That is what caused them certain unease. That is why, honourable senators, we included this wording in Bill C-68, the gun control legislation, and that is why it has been included in other bills.

Unfortunately, my further concern at present is, if we have, say, five different versions of the wording, what will be the judgment of the court on this. Will they say: "The governments do not know what they are saying about Aboriginal peoples and their rights. Does this in any way derogate their rights?" I recognize that the Constitution stands alone, and nothing can derogate from the Constitution.

Where do these various interpretations leave our Aboriginal people? In our study we must ensure that we carefully examine all of those issues so that we can give advice to the government as to what they should do with respect to non-derogation clauses.

Senator Nolin: Honourable senators, can we agree that there is no need to amend the bill? The courts will recognize the Constitution. In the course of the application of the new law, they will recognize the existence of a right.

We came to the conclusion that the problem raised in Bill C-68 and the aftermath of the implementation of Bill C-68 had to be dealt with in Bill C-10B. We decided to go a little further and ask, "Why do we not now enshrine in the law a mechanism that binds not only the courts but also the administrators of the law to recognize those rights at the beginning, not at the end?"

Some have argued that the Constitution is already in place so we need not amend the law. The Constitution applies to all laws. It is not necessary to amend the Interpretation Act of Canada. The Constitution is there to be read and understood by all. However, that is not what we want. We want it to be clearly understood at the outset. We do not want the administration to suggest that the court should decide whether Aboriginal people have a certain right or not. That is not good enough.

In 1982, we recognized the existence of those rights. We want the existence of those rights to be recognized at the beginning of the application of a law, not at the end.

• (1500)

If the intent of the motion were to bring colleagues together to reflect on how best to amend the law so that all of those rights are applicable to every law at the beginning of that application and not at the end, then I would say yes. However, if the intent of the motion is to only reflect on the need to amend the Interpretation Act, then my honest answer is that we do not need that. We have the Constitution and so we do not need to amend the Interpretation Act. However, if its intent is to surgically carve, as we tried with Bill C-10B, an amendment that forces a judge to take into consideration, before issuing a warrant, the possible existence of such a right, some members of the committee had exactly that in mind when we agreed to the amendment.

Senator Carstairs: The honourable senator has expressed it much better than I could have done. That is exactly what we must do. It is, obviously, in the Constitution; that we accept. However, it is not so obvious, and Senator Nolin identified this, whether someone administering the law way below the court level is taking that into consideration. That must be the basis of our study because, if we are to include the understanding of section 35 in the interpretation as the administrators go through that interpretation, then that is of significance to us.

I regret that it has taken us this long to begin this study. This will not be a simple study; it will test the mettle of all senators who sit on this committee. Since 1982, we have handled this issue in different ways. Our Aboriginal people would say that their needs and aspirations have often not been taken into consideration in the administration of the law, and that must change.

Senator Nolin: To use Bill C-10B as an example again, if a peace officer were empowered to apply the law in a specific district, we think that he or she should know that some people have certain rights and other people have other rights, including Aboriginal people. When we drafted that amendment, we did not want that

peace officer to say, "We will let the courts decide whether you have those rights." That was unacceptable. If the Constitution has enshrined the existence of those rights, then they must be recognized at the outset for all. A recognized right is not only for the future but also for the present. The administration should instruct those who are empowered to apply the law to recognize those rights.

Looking at the situation through the opposite lens, we would assume that Aboriginals have those rights, rather than assume they do not have those rights, thereby forcing them to go to court to convince us otherwise. That is the dilemma we were facing.

I will support such a motion as long as we understand that that is precisely what we want to achieve.

[Translation]

Hon. Gérald-A. Beaudoin: Honourable senators, I congratulate Senator Carstairs for raising such an important issue, and one we have been talking about for years, in the Senate. Aboriginal peoples themselves have been talking about this for a very long time. I wanted to make sure that you wanted a study to be done not just on the procedural level, but also as pertains to content. This is one of the rare cases in Canada's Constitution that deals with collective rights. Section 35 refers to collective rights. The only other section I am aware of in Canada's Constitution that refers to collective rights in section 93. It no longer applies to Quebec; the same is true for Newfoundland.

I would like to be sure that this study covers procedure, content and the administration of justice. I think that that is what must be done. I imagine that the Senate Standing Committee on Legal and Constitutional Affairs has the power to define its own mandate on this important issue.

[English]

Senator Carstairs: Honourable senators, the committee will establish its mandate to discuss what it wants to discuss and to report what it wants to report. I was careful to keep the wording as tightly framed as possible so that the committee would have no limitations on what it should do. I do not think the study would be of any value if it is not fulsome.

Hon. Lowell Murray: Honourable senators, without the benefit of having section 35 before me, I do have a fair idea about what it says.

I am not a member of the Standing Senate Committee on Legal and Constitutional Affairs. Although I know that all honourable senators have the right to attend, it is unlikely that I would be able to do so consistently. It seems that we have come some distance from the Constitution Act, 1982. I am hopeful that, in the course of this debate, at committee or in debate that will follow the tabling of the committee's report, we will hear from senators present today who were involved in the 1982 exercise. Senator Joyal participated as the co-chair of the joint committee that studied the Charter. Senator Kirby participated as the principal adviser to then Prime Minister Trudeau. Senator Buchanan was then Premier of Nova Scotia. A number of honourable senators were intimately involved in that process.

In 1982, we did affirm the Aboriginal and treaty rights of the Aboriginal peoples of Canada. There was a companion provision, which resulted in a series of constitutional conferences to define those rights. Those three constitutional conferences, one under former Prime Minister Trudeau's chairmanship and two under the chairmanship of former Prime Minister Mulroney, all failed to achieve the desired result.

The next step in the Charlottetown Accord of 1992 was the affirmation of the "inherent right" to self-government of the Aboriginal peoples. That concept was reaffirmed not long after the swearing in of the current government by the then Minister of Indian Affairs. That concept itself, it seems to me, would require further definition.

Since that time, and Senator Nolin described the development quite well, we have had a variety of non-derogation clauses, some before and some after the fact of legislation. Now it is being suggested that the committee should examine and report upon the implications of including, in legislation, non-derogation clauses relating to existing Aboriginal and treaty rights of the Aboriginal peoples of Canada, under section 35. I would parenthetically remark that we entrenched the Nisga'a treaty, if that is what it is, under section 35. That was the most recent development.

• (1510)

I would seek the opinion of the committee on the implications of including, in legislation, non-derogation clauses relating to existing Aboriginal and treaty rights. Are we giving up on defining Aboriginal and treaty rights more precisely? Is this some kind of backhanded way of doing it, by indirection or in a negative way?

Hon. Fernand Robichaud (Deputy Leader of the Government): On a point of order, I do not think senators can hear what the senator is saying because he is standing too far in front of the microphone.

Senator Murray: Did the Hansard reporter hear me? I do not know that what I was saying is particularly grave. The real question is: What is intended by this move? Are we now trying by indirection or in some backhanded way to do what we could not do directly, which is to define and, indeed, reach an agreement with the Aboriginal peoples, four of whose organizations were at the table on all the occasions that Mr. Trudeau and Mr. Mulroney convened the conferences? Are we trying to do by indirection what we could not do directly and, if so, is that such a good idea? At some point, I would like to hear from others who have more knowledge of these issues than I do. I am, dare I say, in need of clarity.

Hon. Charlie Watt: Honourable senators, I am not entirely sure whether Senator Murray was attempting to put that forward as a question to the leader. Would the leader take this opportunity to respond?

Senator Carstairs: Honourable senators, I listened carefully to Senator Murray's words. He said he was making some comments. He did not say he was asking a question, and therefore I did not respond.

He is raising issues that need to be addressed in committee, and that is why I am reluctant to respond. I do not have a position, frankly, on where I want the committee to go on this. I want the committee to make that determination. I do not want to set the stage in any way regarding what conclusions they should reach.

Senator Watt: Honourable senators, I congratulate our leader, Senator Carstairs, for having the courage to raise this matter.

Some Hon. Senators: Hear, hear!

Senator Watt: As I have said a number of times in the past, I believe it is long overdue. Like Senator Nolin, I do have some concerns in this regard. When we are asked to vote on the motion to study the implications of including this in legislation, I will be bound to say that I think it is somewhat broad. I understand that it was tabled in this fashion because of the uncertainty and the lack of definition as it relates to the recognition in the highest law of the land, the Constitution Act, 1982.

Senator Murray and I have been involved in dealing with this section 35 and section 25, and specifically what is meant to be the seal of section 35. I attended the last first ministers conference, but not in the same capacity as I was in the earlier years when Brian Mulroney was trying to expedite matter. He was unsuccessful on the two occasions that Senator Murray highlighted.

I was involved in the negotiations leading up to 1982, when it was fully recognizing that this was and is unfinished business. We made a every attempt to define it further so the administrators would have clearer information to deal with certain subject matters when drafting legislation.

My question is similar to the one asked by Senator Nolin. It is not our intention to question sections 25 and 35 of the Constitution Act, 1982. Our concern is whether we need to include a reminder in whenever legislation is passed that affects and impacts upon Aboriginal people. If we do not do that, it raises the question of whether what is already in the Constitution will be considered. For this reason, we are playing around with the idea of whether we should come up with a stand-alone statute to help and guide us in our deliberations in dealing with bills, or whether we should go retain the status quo and continue to insert a non-derogation clause in every bill, especially when we recognize that the livelihood of people will be affected.

Since 1995, I have operated in this assembly most uncomfortably, knowing that the lives of my people, the lives of the people I represent, are very different from the lives of those in the south — economically, their social lives, their education, indeed, every aspect of their lives. I do not appreciate being a member of this place and witnessing with my own eyes, laws being enacted which are slowly but surely eating away at what I consider the most important thing to Aboriginal peoples. You have your rights. We have only one right, and that is the constitutional rights of the Aboriginal people. We have nothing else.

I will continue to raise this most important matter. We have the right to live as Aboriginal people. It may not be your intention, but I do believe the system at times pushes legislation forward without taking into consideration the impact it will have on the little people below. This is why I appreciate the opportunity to raise this important matter and the fact that our leadership is dealing with it in this fashion today.

I hope the committee will consider the question of whether we accept that the rights of Aboriginal people should have an impact on the general public in Canadian society. We are here. We are not going anywhere. From time to time, there may have to be compromises between the two races, the two peoples. I do not like to say this, but at times I have to throw it at you: We have rights you do not have. That is a reality. That is what Constitutional recognition is all about. Some people might ask why we should have rights that they do not have. The fact is we were here before you, and the Constitution recognizes that fact, and it has been accepted and acknowledged by the general public of Canada. Let it be. Let us move forward.

(1520)

Hon. George Baker: Honourable senators, I observed Senator Watt for many days in the Standing Senate Committee on Legal and Constitutional Affairs. I think his reaction to the most recent legislation was brought on by the lead counsel for the Department of Justice, who stated quite emphatically in response to a question from Senator Watt that there are not two standards under this bill and that the bill applies equally — no matter where one lives in Canada. Of course, Senator Watt was concerned because other pieces of legislation that have gone through Parliament — for example, the marine mammals regulations under the Fisheries Act — exclude beneficiaries. Beneficiaries are defined as those people covered by the James Bay agreement, by the Nunavut agreement and so on. These are negotiated agreements. Dealing with fisheries, the regulations and the act state explicitly that we are not allowed to kill white coat seals and sell their pelts. People in Newfoundland, Nova Scotia and P.E.I. are not allowed, but beneficiaries under those agreements are, and so they should be.

I have seen two pieces of legislation dealing with marine mammals in which representatives from the Department of Justice said no, all of these rules apply to everyone, no matter where they live in Canada. Well, people were in quite a spot because they would then be subjected to animal rights groups all over the country and all over the world wanting to prosecute them under the Criminal Code. Here was a new avenue now to bring them into court and put them in jail. They could not do it under

the existing law. Why? Because beneficiaries were excluded from the provisions of the act that stated that one cannot sell, trade or barter in white coats or blue backs. Here they were in a difficult situation, so they asked the Department of Justice, "What about us?" The Department of Justice said, no, everyone is to be treated the same.

Senator Nolin: Find out when you get into court.

Senator Baker: That was the reaction.

We have the protection of our legal system in Canada. It is called prosecutorial discretion, and we use that discretion in a court of law. Never mind that you get charged or thrown in jail for doing something. You will find out in court, after you spend a lot of money on a lawyer probably confronting Clayton Ruby. I do not know where you would dig up that kind of money. That is what they were confronted with.

What are the Senate, the House of Commons and the Parliament of Canada confronted with now? We have to make up our minds. People have to make up their minds. Do we have to in each piece of legislation, as was done in the Fisheries Act, under the regulations, as was done in other pieces of legislation, draw a recognition to what is actually in the Constitution?

I think the Leader of the Government should be congratulated for bringing this motion forward. I think we have the right group of people on that committee at the right time with the expertise to deal with that problem so that Senator Adams does not have to go to the committee, as he did many times, and put forward that this is just not fair. It goes to the very fairness of our judicial system in this country to have to be brought into court when it should have been excluded right from the very beginning.

I think that Senator Watt and Senator Adams are absolutely correct in asking for this study, and I am sure that the committee will do justice to it.

Hon. Serge Joyal: Honourable senators, I cannot resist an invitation from our colleague Senator Murray, to say a few words on this motion that I support totally for many reasons.

The first reason is that, as Senator Murray has said, we are dealing here with unfinished business. There is no question about that. When we entrenched Aboriginal rights in 1982, that concept was still very vague concept. The concept of self-government was not even the topic of common discussion. It was mentioned, but no one knew exactly what it meant. I see Senator Watt saying yes to this, and he will remember at that time the discussion we had.

The problem we face with the rights of Aboriginal peoples is complex. Try to imagine that in the Constitution we have recognized linguistic equality — and our colleague Senator Gauthier will certainly concur in the importance of that recognition — but that there is no mechanism to implement respect for that principle on a daily basis, like we have had an official languages commissioner for more than 20 years.

Where are we? We have left the Aboriginal peoples with the responsibility, first, to define their rights by themselves. Most of the time we have fought them in court with a battery of lawyers, starting with the Department of Justice. Second, when the issue was not that clear, we sometimes contributed to make it unclear. The reason we have different non-derogation clauses is because following a judgment of the court, the Department of Justice decided to review the non-derogatory clause of section 35 and come forward with different wording. The problem was not created by the Aboriginal people themselves. The problem was created by us. The problem is expanded by the fact that the administration, generally, as Senator Nolin has said, has not a clear idea of what their obligation is when it drafts legislation that might impact or impinge upon the rights of the Aboriginal peoples.

There have been judgments in the Supreme Court of Canada. The *Sparrow* judgment was, in my opinion, quite clear regarding the obligation that the administration has when it proposes legislation. There are three criteria. They first have to consult formally with the Aboriginal people. In the bill that Senator Nolin mentioned, Bill C-10B, it was quite clear on the record that the Assistant Deputy Minister of Justice said he did not consult formally with the Aboriginal people. Second, they have to adopt the least harmful solution to the proposal in question. Third, they have to compensate the Aboriginal people.

Put yourself in the shoes of an Aboriginal person. In all steps of the development of the policy, they have to fight. While they are fighting, we tell them, "Well, you have the Constitution; go to court." We all know what it means when they go to court. They get different judgments. There was a case two years ago, in the Court of Appeal of Ontario, the famous *Powley* decision. I see Senator Chalifoux, a Metis person, who was involved in that judgment.

The court has been very clear on the interpretation of section 35. It has said that entrenching section 35 in the Constitution of 1982 did two fundamental things. The first was that it recognized that Aboriginal people have rights that pre-existed the rights of the European settlers. They have rights that predate the rights of Senator Murray, Senator Jaffer, myself, Senator Austin and any of the other senators in this room who are non-Aboriginal senators. In other words, before our ancestors arrived, mine and Senator Austin's, there were people here with rights. They were organized in a society. They had a culture, religions. They had a kind of government that was their own. They had traditions. They had the structure of a comprehensive society.

• (1530)

The first objective in 1982 was to recognize that Aboriginal people had pre-existing rights. The second objective was to protect and recognize those rights — not to diminish them, not to lead them progressively through all kinds of legislation and regulations. That is what we wanted to do when we entrenched section 35.

Twenty-one years after patriation, we find ourselves still struggling to discover what kind of procedure the administration must follow when it deals with an issue that

touches upon Aboriginal peoples' rights, that is, their way of living, their way of governing, their way of being, as Canadians, different from us.

After 21 years we find ourselves with five different interpretations of the non-derogation clause — not because they asked for it, most of the time, but because it was imposed on them.

We have to define first — and I endorse Senator Nolin's approach — the government's responsibility in relation to drafting legislation because we are dealing here with a clause that we find in various statutes. Before we come to the conclusion that we should include that clause in the legislation, we must consider how we draft legislation. How do we approach legislation where Aboriginal people have an interest? That is the first step. The second step is to ask ourselves, "Does that legislation impinge on constitutionally protected rights?" They have certain rights that we do not have, and they have the right to be who they are.

Honourable senators, this is not an easy issue. I say quite frankly to Senator Murray: The political process has not worked well. We remain in a culture of confrontation between a minority in Canada and the rest of Canada through its governments. It is not an easy job for an Aboriginal person, coming from hundreds of years of reserve history, of acculturation, of conflict of civilization, to come forward now in this chamber and say: "You have a responsibility. We share this land. How can we share it in a way that we can continue to grow and protect our fundamental identity as Aboriginal persons?" Senator Watt tells us that the only thing they have is their identity. They count on us to ensure that they can protect that entity and thrive with that identity within the Canadian framework of legislation.

This is not an easy job, honourable senators. It is left to the courts. The courts have done more for the protection of Aboriginal people than many of the politicians in the history of Canada. Why is that so? They relied essentially on the protection of section 35. That is their only safeguard. That is why they ask us today to help them to identify how we can use that section to protect them in future legislative activities that are the daily bread of this chamber.

Honourable senators, all of us are called upon to use the reserve of our knowledge, the reserve of our sensitivity to recognize the unique role and function that we have in this chamber to question the status and rights of Aboriginal people and how far we can go. It is not to tell them, "If you are not happy, go to court." As fiduciary trustees of Aboriginal rights, to do so would be a shirking of our responsibility. That is what the Supreme Court said last December in the *Wewaykum Indian Band* decision.

We owe a trustee relationship to the Aboriginal people. Imagine that you are the trustee of a group of people. You cannot say, "Well, try to do your best and let me know one day if it works or not." We have to help them achieve the full recognition of their status. The role of the government today is to call upon us to do our best to ensure that we propose to the government the approach, as Senator Nolin has said, that the administration should follow in the drafting of proposed legislation that deals with issues pertaining to the Aboriginal people of Canada.

Senator Murray: I wish to ask the honourable senator a question. I appreciate his position and admire his passion and eloquence in defending it in general.

It is true when he says that the political process failed to define those Aboriginal rights. We were witnesses and some of us participants in that political process, which included different federal governments, the provinces and four Aboriginal organizations.

My observation is that there was a certain amount of what I called at the time "mutually reinforcing intransigence" on both sides and, unfortunately, a division, as it turned out, even among the Aboriginal organizations. However, that is not the concern for the moment.

Am I incorrect, however, in describing the honourable senator's position as being that the rights that have not been defined so far are to be defined by applying non-derogation clauses to federal legislation? Have we come to that?

Senator Joyal: Honourable senators, at the end of it, we have to find a way out of this. The debate that we had at the Standing Senate Committee on Legal and Constitutional Affairs three or four weeks ago on the amendment of Bill C-10B and the participation in the previous six months of study on the bill afforded committee members the opportunity to realize the importance of this issue and how necessary it is for us to come to terms with it.

It would be most helpful if senators would put their heads together to consider some options and to return to honourable senators with options. There is not only one issue. There is not only one solution. There might be multiple approaches to this issue. There are various options that we might want to consider and debate in this chamber.

It is up to us at this point to help the court to understand what we mean by "Aboriginal rights." As a Parliament, we have a role to help the court understand. We cannot leave that responsibility solely to the court. It is not because the political process in the past has not produced all the results that we expected that we cannot question ourselves as legislators and come forward with proposals.

We are part of the definition of rights in this land. The Parliament of Canada is part of that process, especially with Aboriginal people. As I said in the past, we are a unique legislative chamber in Canada. We are the only chamber in which there are six Aboriginal people who can take part on a daily basis in our discussions and reflections. That is a tremendous opportunity to help the process. Honourable Senator Murray, who has been part of so many constitutional discussions with provincial and federal governments alike, will realize that we, as a country, must address this issue. This debate is part of the essential definition of Canada.

Honourable senators, I hope as a member of the Standing Senate Committee on Legal and Constitutional Affairs — and I see here all the members and some others in the past who have participated in the discussion — that all members will join in that study and reflection. The deadline to report is within six months,

December 2003, which is rather soon. Time is short. No doubt we will want to hear from various Aboriginal groups, representatives, experts and so forth. We will want to study the judgments of the Supreme Court of Canada in relation to these issues. It will be a compelling term of reference in which I hope all honourable senators will take part.

[Translation]

Senator Nolin: Honourable senators, may I ask a question of the chair of the Senate Standing Committee on Legal and Constitutional Affairs?

[English]

Is it proper to do that?

The Hon. the Speaker: The honourable senator can speak or make a comment.

• (1540)

Senator Nolin: It is a question of the nitty-gritty. Do we have the resources? Do we have the time? What is the intent of the committee? We will definitely need support staff to achieve that.

We can put our minds to this important question. I do not intend to be part of half of an answer. If we are to provide an answer, we will provide a full answer.

I am not convinced that six months is sufficient. If it is the only time that we have, let us do it.

Is it the intent of the Chairman of Standing Senate Committee on Legal and Constitutional Affairs to seek more funds to provide the committee the proper support staff to meet such an important challenge?

Hon. George J. Furey: Honourable senators, it is difficult for me to answer the question at this time. I will need to explore it with the leadership and with the Standing Committee on Internal Economy, Budgets and Administration. We will find out.

I agree with the honourable senator that resources will be needed. Are they there? I cannot answer that question at this time.

Senator Cools: Honourable senators, perhaps these questions could be answered as the debate continues. I understand that a senator on the other side is about to take the adjournment of the debate. I intend to speak to this motion sometime next week. These answers could certainly unfold in the next several days.

Senator Furey: I do not want to cut Senator Cools off, but I do not want to leave the impression that because I do not know the answer at this stage that I will not make every effort to find the answer.

On motion of Senator Nolin, debate adjourned.

[Translation]

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I am saying what I say every Wednesday, as this is a day we try to finish as close to 3:30 p.m. as possible in order to allow the committees to meet. Is there consent that all items on the Orders of the Day shall remain in their respective place until the next sitting of the Senate?

[English]

The Hon. the Speaker: Is it agreed, honourable senators, that we accept Senator Robichaud's suggestion and leave the remaining matters standing in their place until the next sitting?

Hon. Senators: Agreed.

The Senate adjourned until Thursday, June 5, 2003, at 1:30 p.m.

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—◆—
THE HONOURABLE DAN HAYS
SPEAKER



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THE SENATE

Thursday, June 5, 2003

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

D-DAY

FIFTY-NINTH ANNIVERSARY

Hon. Norman K. Atkins: Honourable senators, it is with great honour that I stand today to pay tribute to those brave Canadian soldiers who stormed Juno Beach on D-Day, June 6, 1944, the start of the liberation of France and Europe. I had the honour of being with the veterans at the fifty-fifth anniversary of the invasion of France, and it was a humbling experience.

Fifty-nine years ago, over 21,000 Canadian soldiers landed at Juno Beach after a long, wet and difficult journey across the English Channel. Three-hundred and forty soldiers were lost, another 574 were reported wounded, and 47 men were taken prisoner. Those are the cold, hard statistics.

What these statistics do not tell us is the grit and determination demonstrated by Canadian soldiers in the invasion on Juno Beach, arguably the bloodiest beach of the British-Canadian landings. Canadians swarmed ashore while others perished in cold, bloodstained water under direct and indirect enemy fire.

Canadian soldiers got the job done. In fact, we achieved the farthest penetration into enemy territory of any unit deployed on that day.

As Prime Minister Winston Churchill said to President Roosevelt, at the time, "This is much the greatest thing we have ever attempted." He further stated in the British House of Commons, "This is not the beginning of the end, but is the end of the beginning."

Senators Meighen, Forrestall, Day and Wiebe from this chamber will be in attendance at the ceremonies commemorating this enormous feat as they attend the opening of the Juno Beach Centre in Normandy, France.

The Juno Beach Centre is special for us as Canadians. It is designed to commemorate Canada's enormous contribution to the Allied victory in World War II. During this period, 1939-45, 45,000 Canadians lost their lives, with another 55,000 wounded. We had an armed force of over 1 million volunteers, a truly remarkable commitment for a country, at that time, of approximately 13 million people.

Tomorrow, in addition to the ceremonies in France, Canadians will gather in various communities across the country to pay their respects to the women and men of the 3rd Infantry Division, the 2nd Armoured Brigade and the 1st Canadian Parachute Battalion, Canada's military units which participated in D-Day landings.

The Juno Beach Centre opening tomorrow has, as its mission to preserve, for future generations, knowledge of the contribution of those Canadians who fought in World War II and to honour their gifts of valour and courage, which resulted in freedom for all of us.

I commend the Government of Canada for designating the Juno Beach landing site as a site of national historic significance to Canada. Canada celebrates and commemorates many special days a year, and June 6 has to be one of those. We shall never forget the tremendous sacrifice Canadians made at Juno Beach in 1944.

PROFESSOR KARIM-ALY KASSAM

CONGRATULATIONS ON RECEIVING FULBRIGHT-ORGANIZATION OF AMERICAN STATES ECOLOGY GRANT

Hon. Mobina S. B. Jaffer: Honourable senators, I rise to recognize the outstanding achievements of Professor Karim-Aly Kassam, an Albertan and one of Canada's finest northern researchers, who recently became the first Canadian winner of the prestigious Fulbright-OAS ecology grant.

The Fulbright-OAS ecology grant offers opportunities for scholars, in the fields of natural science, social science and public policy, who wish to pursue masters and doctorate level studies in the United States. Professor Kassam will pursue a doctorate in natural resource policy and management at Cornell University.

Last night, I was honoured to co-host a reception on Parliament Hill, celebrating Professor Kassam's outstanding achievement with Commissioner Nurjehan Mawani of the Public Service Commission. In attendance were diplomats, our Senate leader, Senator Carstairs, parliamentarians, including the Honourable David Kilgour who was our master of ceremonies, Rahim Jaffer who lauded Professor Kassam's achievements, Dr. Michael Hawes, Executive Director of the Canada-U.S. Fulbright Program, who spoke of the significance of the award, and Mr. Charles Coffey, Past Chair of the Canada-U.S. Fulbright Commission. We paid tribute to the tireless efforts of Professor Kassam to help sustain the indigenous communities of the Far North.

Commissioner Mawani spoke of Professor Kassam's academic excellence and highlighted a few of the many reasons why he is deserving of the award. He said:

His work in the Arctic has touched and has relevance for both U.S. and Canadian jurisdictions. His past work and proposed field of scholarship, based as they are on the Arctic and the sub-Arctic, are of universal interest far beyond the immediate confines of North America, and the plight of indigenous peoples is now increasingly engaging the attention of Governments around the world.

• (1340)

Speaking to the group last night, Professor Kassam had these words of inspiration:

I firmly believe to whom much is given much is expected. This is a principle I ingrain into my teaching and it informs my day-to-day activities, especially my research.

Those of us who teach in Canadian universities and undertake research with the support of public institutions have a responsibility to serve, to serve communities in which we live and across the world. Our role is to be "citizen scholars." The protection of academic freedom that we have is simultaneously a right and a responsibility, a duty to serve through our work.

I hope honourable senators will join me in congratulating Professor Karim-Aly Kassam for his groundbreaking achievement and for his determined research and efforts to assist the communities of the North to sustain their ways of life and enhance their future prospects.

GLOBAL TELEVISION NETWORK SCHOLARSHIP AWARD FOR A CANADIAN VISIBLE MINORITY STUDENT

Hon. Donald H. Oliver: Honourable senators, I am always interested to learn of new initiatives to promote and enhance the upward mobility of visible minorities. I recently came across a publication that outlined a new scholarship program called the Global Television Network Broadcaster of the Future Awards. Among these awards is the Global Television Network Scholarship Award for a Canadian Visible Minority Student. The specific scholarship is designed to encourage and aid talented and enthusiastic Canadians in establishing or furthering a career in the Canadian broadcasting industry.

The annual scholarship award is offered to one Canadian student from a self-identified visible minority and provides educational assistance toward the pursuit of a career in broadcasting. The award, valued at \$4,500, covers tuition and textbooks for one year for a radio or television arts program or journalism program at a recognized Canadian university or college.

Honourable senators, I find this exciting and encouraging. Television is a powerful medium and strongly influences opinion. The greater access visible minorities have to positions of influence, the greater their opportunity to promote equality.

The Global Television Network is owned by the CanWest Global Communications Corporation.

Canadian university tuition costs have risen dramatically since 1990. As a result, the average debt load for a student graduating with a bachelor's degree has nearly tripled from \$8,700 a year to \$22,000 a year. This is a significant amount of debt to carry in order to achieve a university degree. As employers' expectations rise, university education is quickly becoming an essential element on a resume.

In Canada, a member of a visible minority may be paid a wage significantly less than a fellow employee who is performing the same job but who is not a member of a visible minority. Wage disadvantages are unfair, but they are real. For a family, the effects of prolonged wage disadvantage may determine whether a child will complete a university degree with a great debt.

Students should contribute to the cost of their education. The problem arises when tuition fees are so expensive that they prevent less-privileged students from attending university. The outcome of increased tuition may be that underprivileged high school students will not have a chance to attend university.

Honourable senators, the need for scholarships, such as the Global Television Network Award for a Canadian Visible Minority Student, is evident. I strongly support this initiative.

ENVIRONMENT WEEK

Hon. Catherine S. Callbeck: Honourable senators, this week marks a very important week — Canadian Environment Week. During this week, Canadians across the country will be celebrating the progress that has been made toward the protection of our environment and learning more about what each of us can do to ensure its health.

The theme of this year's environment week is, "Taking Action for Our Environment." Earlier this week, a number of people from my home province of Prince Edward Island were honoured, in five categories, for their contributions to the environment.

Everett and Betty Howatt were honoured as individual citizens. They have been planting trees around their land to create windbreaks and habitat for wildlife. Betty Howatt has a regular segment on CBC Radio that she uses for discussing the environment.

The Agri-Conservation Clubs, East and West, were honoured in the category of business or government agency. The clubs have been tremendously successful in introducing and promoting sustainable farming practices that are environmentally friendly.

Dr. Ian MacQuarrie was honoured for his work in education. Dr. MacQuarrie teaches at the University of Prince Edward Island. Many of his students have continued on in environmental fields.

The Morell River Management Co-op was commended in the category of citizenship group or organization. The co-op has been dedicated to enhancing the health of the Morell River system and has been fundamental to restoring the salmon population in the river.

Finally, Sarah Field was honoured in the youth category. Sarah is currently working on her masters degree in biology at the University of Prince Edward Island. Her graduate research is on the behaviour of coyotes in Prince Edward Island and will be instrumental in developing effective management practices in dealing with and ensuring the conservation of the animals.

I should like to extend my sincere congratulations to the individuals honoured this week and to all Canadians who have taken action for the environment. Individuals' actions may seem small; however, even the smallest efforts can make the biggest difference toward improving not only the health of our environment but also our own health.

ROUTINE PROCEEDINGS

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY PUBLIC HEALTH GOVERNANCE AND INFRASTRUCTURE

Hon. Michael Kirby: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and report on the infrastructure and governance of the public health system in Canada, as well as on Canada's ability to respond to public health emergencies arising from outbreaks of infectious disease. In particular, the Committee shall be authorized to examine and report on:

- the state and governance of the public health infrastructure in Canada;
- the roles and responsibilities of, and the coordination among, the various levels of government responsible for public health;
- the monitoring, surveillance and scientific testing capacity of existing agencies;
- the globalization of public health;
- the adequacy of funding and resources for public health infrastructure in Canada;
- the performance of public health infrastructure in selected countries;
- the feasibility of establishing a national public health agency as a means for better coordination and integration of improved emergency responsiveness;

- the Naylor Advisory Group report and recommendations.

That the committee submit its report no later than March 31, 2004.

UNIVERSITY RESEARCH FUNDING FROM FEDERAL SOURCES

NOTICE OF INQUIRY

Hon. Wilfred P. Moore: Honourable senators, I give notice that, on Tuesday next, I will draw the attention of the Senate to the matter of research funding in Canadian universities, from federal sources.

QUESTION PERIOD

FINANCE

FUNDING OF MUNICIPAL INFRASTRUCTURE

Hon. Terry Stratton: Honourable senators, I have a question for the Leader of the Government in the Senate. A question regarding gasoline taxes that I asked on May 7, at the National Finance Committee meeting elicited the following response from the Department of Finance: "The federal government imposes an excise tax of 10 cents a litre on gasoline and 4 cents a litre on diesel fuel. This brings in a total of \$4.8 billion a year."

• (1350)

Honourable senators, let us put this in perspective. The infrastructure of Canadian municipalities is crumbling and is in urgent need of renewal. For example, Winnipeg alone faces a \$1 billion deficit in capital investments, and they do not know where to find the money. That number is part of an estimated \$57 billion projected need across Canada with respect to urban and rural infrastructure. The federal contribution to this national need is a grand total of \$3 billion over 10 years, or \$300 million per year. Remember, the government brings in \$4.8 billion per year. At its meeting last week in Winnipeg, the Canadian Federation of Municipalities called for a minimum of 5 cents per litre from the current excise tax to be devoted to funding municipal infrastructure. Former Finance Minister Paul Martin is open to some form of revenue sharing.

Could the Leader of the Government in the Senate inform us whether the government is seriously considering such a request?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, as the honourable senator knows full well, municipalities are the creatures of provincial governments, not of the federal government.

The traditional way of passing money to municipalities from the federal government has been through tri-partite programs involving municipal, provincial and federal government participation, with two of the three governments determining where the money will go. If the honourable senator is asking whether the change proposed by Mr. Martin, who is no longer the Minister of Finance, will happen now, I would say no. Is he indicating that discussions may take place with provincial governments? That has not been decided, but I do not think, within the ambit of the Constitution Act, that the Government of Canada would start giving contributions directly to municipalities without the approval of provincial governments.

Senator Stratton: Does the federal government not tag monies flowing to the provinces, respecting how it should be spent? Surely to goodness, if you bring in \$4.8 billion per year, you can afford to give more than \$300 million per year to urban infrastructure.

Senator Carstairs: In fact, there are some agreements, such as the Health Care Renewal Accord, between provinces and the federal government, that the provinces will spend monies in certain ways. That has been an accepted principle. However, much money flows to the provinces that is not earmarked in that way. Should such earmarking be desired, then the appropriate agreements would have to be worked out with the provinces.

Senator Stratton: Honourable senators, yet again I can appreciate that, but municipalities, both urban and rural, have a \$57 billion deficit. The City of Winnipeg does not know where to find \$1 billion to fill its shortfall for infrastructure rebuilding. As the honourable leader knows, because she is a resident of the province and a frequent visitor to Winnipeg, the streets are falling apart. Surely to goodness there has to be a better solution than simply flipping it out and considering it to be a provincial responsibility when all cities, all towns and all villages across the country are experiencing the same problem.

Senator Carstairs: It is most interesting, but the ability to give cities additional tax revenues does not come from the federal government; that ability belongs to the provinces. A province has the right to give its municipalities the authority to raise taxes in new and different ways. They also collect far more in gasoline taxes than the Government of Canada collects. One would then wonder why provincial governments do not provide more direct funding to the municipalities, particularly the City of Winnipeg where 65 per cent of the residents of the province live.

Senator Stratton: We seem to be getting along and then the honourable leader makes a remark that requires me to get to my feet again. Honourable senators, this problem will not go away. It will only become larger. Most senatorial seats are in those urban areas, so it would stand to reason that members of this chamber would pay some attention to this issue.

Is the honourable leader saying that she will do nothing, and is she unequivocally saying no to any kind of assistance for infrastructure rebuilding?

Senator Carstairs: That leads me to think of the most recent provincial election in the Province of Manitoba, when most of the seats of the honourable senator's party were in rural Manitoba. I

believe that only four or five Conservative seats remain in the City of Winnipeg, which represents 65 per cent of the population of Manitoba.

Having said that, the reality of the relationship between the provinces and the federal government is that negotiations are ongoing regarding funding. However, until such time as the provinces agree that the municipalities should be funded separately through their provincial governments, I do not anticipate any immediate change.

HEALTH

BOVINE SPONGIFORM ENCEPHALOPATHY— TRACE-OUT CASES IN UNITED STATES

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate and it pertains to the trace-out investigation that the Canadian Food Inspection Agency, CFIA, is conducting into the case of mad cow disease that occurred in Canada. Now that the trace-out will have to deal with five bulls that were moved to two farms in the United States of America, the matter of cross-border contamination has emerged as a major issue.

My question for the Leader of the Government in the Senate is: In working with American authorities on this trace-out, will the two farms in the United States undergo a rigid process of scrutiny and testing similar to what has happened with affected farms in Canada, or are farms in Canada being held to a different standard in the process of investigating the origins and points of possible transmission of bovine spongiform encephalopathy, BSE?

Hon. Sharon Carstairs (Leader of the Government): As the honourable senator must understand, the two farms in the United States would not fall under the authority of the Government of Canada. Both farms fall under the authority and the direction of the rules set by the United States Department of Agriculture.

The systems are a little different but, in some ways, they are the same. However, the United States has not put in place the same kind of trace-back provisions that we put in place in Canada in 1997, as a result of the BSE outbreak in the United Kingdom. We can now follow exactly where any animal goes from birth to death. The U.S. tracing procedures are not the same, but the rules to which these farms in the United States will be subject are no within our purview or control.

HUMAN RESOURCES DEVELOPMENT

BOVINE SPONGIFORM ENCEPHALOPATHY— AID TO BEEF INDUSTRY WORKERS

Hon. Donald H. Oliver: Honourable senators, the federal government has been criticized for not agreeing to waive the two-week Employment Insurance waiting period for workers who lost their jobs due to the mad cow disease scare. Even Mr. Paul Martin and Mr. Ralph Goodale have criticized their own government for taking this stance. The source for that information is *The Leader-Post* of Regina, June 2, 2003.

Could the Leader of the Government in the Senate comment on the possibility of whether her government will reconsider this position? If not, because Mr. Goodale has deviated from the government's line on this issue, is the principle of cabinet solidarity a myth with this government?

Hon. Sharon Carstairs (Leader of the Government): In response to the first part of the honourable senator's question, Human Resources Development Canada, HRDC, has put an absolutely appropriate procedure in place. As I indicated yesterday, in response to a question from Senator Roche, the reason for waiving the two-week waiting period in Toronto and other areas affected by SARS, was the health emergency status of these people. The honourable senator may know that 56 people in Western Canada did not have to serve the two-week waiting period for that reason. Those people were not allowed to look for work. By this incentive, it was hoped that they would remain quarantined and therefore would not lead to the contamination of anyone else in the community. It was the first time that the waiting period has ever been waived, but it was not waived, for example, for all of those hotel workers and others who lost their employment opportunities in Toronto and in other cities or communities across this country.

HRDC made the correct decision. As to the statements that may have been made by the Honourable Mr. Goodale, I can only say that he does not speak for the Employment Insurance program.

• (1400)

HEALTH

BOVINE SPONGIFORM ENCEPHALOPATHY— LETTER OF VETERINARY SCIENTIST EMPLOYEE TO DEPARTMENT

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): I have a supplementary question regarding BSE, honourable senators. Could the minister advise whether the health department is examining whether the food materials made from rendered materials are part of the study or analysis that is being undertaken.

Hon. Sharon Carstairs (Leader of the Government): I am not sure I fully understand the honourable senator's question. If he is asking if we are looking at policies with respect to ruminant materials, yes, indeed, we are undertaking such a study.

Senator Kinsella: I ask the question because it is reported today in the media that Dr. Chopra, who works for the Department of Health in the Veterinary Drugs Directorate, was disciplined for having written a letter in which he had asked the Department of Health to ban the use of these substances. He and his colleagues considered that the primary cause for the transmission and spread of this disease, animal feeds containing rendered materials of other animals, has been allowed to prevail for much too long. As everyone knows, in other jurisdictions, particularly in the European Community, feeds containing those materials may

not be used. Could the minister at least have someone look into why a qualified veterinary scientist who works for the department would be disciplined for writing a letter internally and making a recommendation of this sort? I find this development somewhat curious, and perhaps we should obtain some background information.

Senator Carstairs: I can assure the honourable senator that because of much good work that he personally has done, there is a new policy in place with respect to how an individual will be dealt with should they bring matters of concern to the department. I can only presume that, in this case, Dr. Chopra did not follow the procedures, which are clearly laid down, that he must follow, but I will try to obtain further information on this case.

JUSTICE

LOSS OF FIREARMS REGISTRY RECORDS

Hon. Gerald J. Comeau: Honourable senators, the Solicitor General admitted recently that a computer crash at the federal firearms registry may have wiped out the records of gun owners who had registered their guns around that time. As well, the minister said that no additional time would be provided to Canadians to ensure that their registration papers had in fact gone through the system. Would the Leader of the Government advise what the government will do to protect Canadians from being prosecuted because of this bungling, and will she give assurances that Canadians will not be prosecuted under the Firearms Act or the Criminal Code for what is not their fault?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, those individuals who applied and may have had their information lost would clearly not have had a response at this point from the Government of Canada because the government would not have received the information. Some five months have passed since then, and the minister has indicated that if the government has not received a response, individuals should immediately inform the government. In that case, they would have been deemed to have applied in the appropriate ways, and the licence will go through its normal procedures. They will not be unduly punished by something that, as the senator has indicated, is beyond their fault.

Senator Comeau: Honourable senators, I hope I understand correctly. If those people who did apply around the time of the crash have not been contacted by this time, they should try again. The fact that they are trying again will ensure that if they do not get their papers by the deadline date, they will not be prosecuted under either the Firearms Act or the Criminal Code.

Will the government undertake to advise those people who did in fact send in their application at that time but who may not be aware that the computer crashed or may not have been reading the newspapers? Those people may not be aware that they are soon liable to become criminals. Is there a means for the government to contact these people to ensure that they are advised that they may soon become criminals?

Senator Carstairs: There is a certain thing called due diligence, honourable senators. If an individual made an application and did not receive any word from the person to whom the application was made and some five months have passed, one would say that the normal individual, knowing that the time frame was quickly coming to pass, would have contacted the government to indicate that there was something wrong.

The minister has indicated that a communications strategy will be put into place so these people are informed. However, the government will not be able to identify them. They will have to self-identify because if they were in a computer that crashed, the government does not know about them. An effort will be made, but there is also a responsibility on individuals to inform the government that some considerable number of months has passed and they have received or heard nothing.

NATIONAL DEFENCE

EFFORTS TO DESIGN NEW LOGO— RELATIONSHIP BETWEEN CONTRACTED COMPANIES

Hon. Norman K. Atkins: Honourable senators, my question is to the Leader of the Government in the Senate. After failed efforts to design and test a new logo for the Canadian Armed Forces, costing more than \$100,000 in total, the Department of National Defence has gone back to the drawing board. Despite its previous failure, the Quebec firm of Createc Plus is being paid a further \$70,000 to try again. Focus groups liked a logo designed in-house by the government better than the one proposed by the supposed experts hired outside. Can the leader tell us why we continue to waste taxpayers' money, hiring an outside firm to design a new logo, when the in-house capability exists to create a logo? Why are they not simply improving the one they had?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the issue is that the in-house logo has not been as effective at reaching out to the new generation of individuals the Canadian Armed Forces wishes to attract, and it is not considered to be effective even by the Armed Forces. Having said that, they sent it out.

The senator is quite right that focus groups indicated that this logo was not the right one either. The company has gone back to the drawing board in order to come up with a logo.

The people on service with the Armed Forces themselves are not trained in logo development. Logo development is, in itself, a highly developed skill. The logo they were given is not right, and they have gone back and attempted to draw up another.

Senator Atkins: Honourable senators, the minister is saying that they wasted their time having focus groups. I assume one of the focus groups they would have used would be members from the armed services.

Senator Carstairs: It is one thing to be a member of a focus group from an armed service and say, "That logo does not say anything to me." It is another thing to ask the Armed Forces to design the logo. We have firms across this country who do

nothing but specialize in the development of logos. They do not always get it right. Just ask corporations from coast to coast in this country. Sometimes the logo just does not make it.

Senator Atkins: Having been in the business myself for a number of years, I know a little bit about logo design. Can the Leader of the Government explain the relationship between Createc Plus and Groupaction, which provided many, if not all, the logo designs in 2000?

Senator Carstairs: I do not know what the relationship is, if any, between the two. I will have to take that question as notice.

• (1410)

[Translation]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table two delayed answers to oral questions. The first is a response to an oral question raised by the Honourable Senator Oliver in the Senate on May 13, 2003, concerning the biometric national identity card proposed by G8 nations, and the second is a response to an oral question raised by the Honourable Senator Spivak on May 27, 2003, concerning bovine spongiform encephalopathy.

CITIZENSHIP AND IMMIGRATION

BIOMETRIC NATIONAL IDENTITY CARD— PROPOSAL BY G8 NATIONS

(Response to question raised by Hon. Donald H. Oliver on May 13, 2003.)

The Minister of Citizenship and Immigration has initiated a discussion on national identity cards by requesting that the Standing Committee on Citizenship and Immigration look at this issue and hear witnesses. As this issue is before the Standing Committee, neither the Minister nor the Government have taken a position on implementing biometrics on a national identity card. While it is possible that a national identity card with biometrics could be used to facilitate international travel, there are many other applications also being considered by the Standing Committee. The recent discussions of biometrics at the G8 involved the application of biometrics on travel documents and does not specifically involve a national identity card.

The department has had no direct discussions to date with the U.K. government about their concerns. CIC, along with other government departments, are represented at G8 and ICAO meetings where such discussions regularly take place.

We attach for your reference, the following information from the G8 Justice and Interior Ministers' meeting of May 5, 2003:

The G8 Justice and Interior Ministers, at their meeting of May 5, 2003, agreed upon the following with respect to biometric technologies in travel documents (extract from the Justice and Interior Ministers' Communiqué):

Use of Biometric Technologies

We unanimously stressed the importance of developing biometric technologies and their application in travel procedures and documents. We recognized that these new technologies open up new possibilities in the fight against the use of fraudulent documents for criminal or terrorist purposes. Consequently, they help strengthen transportation security, in accordance with the objectives set out in 2002 by the G8 Leaders.

We underlined that the issues relating to application of this new technology should lead us to work on developing a common framework and standards within the competent international bodies. In this spirit, the G8 contributed to the International Civil Aviation Organization's (ICAO) work in the form of a Declaration (G8 Roma and Lyon Groups Statement for ICAO on Biometric Applications for International Travel). The declaration identifies three guiding principles in establishing the standards: universality of standards to ensure perfect technical interoperability, urgency in implementing these technologies and technical reliability.

We have decided to convene a high-level working group co-chaired by France and the United States, with a first meeting in Germany, which before the end of French Presidency shall report their recommendations on ways to develop biometric technologies, including manners of assessing their effectiveness. We ask them to work in conjunction with the Roma and Lyon groups and to take into consideration the work underway within ICAO about biometrics.

Senator Oliver has stated that the G8 countries have agreed to develop travel documents capable of carrying biometric information. That a document is "capable" of carrying a biometric does not necessarily mean that it does, rather that forward planning has incorporated that capability. Discussions of biometric technologies predate the US requirements which arose after Sept. 11, 2001. The international standards-setting organization for travel documents, ICAO, has been involved in exploring biometric technologies for several years. Paragraph 9 (above) of the Justice and Interior Minister's Communiqué refers to the G8 Summit in Kananaskis, Alberta in June 2002, and the recognition at that time of biometrics as one means of increasing the security of travel documents, and hence, of transportation security. Therefore, the Justice and Interior Ministers expressed support for continued work in the G8 and in ICAO to develop international standards for biometrics. They further called (in paragraph 11) for a "high level working group" to be convened. Canada is awaiting information from the co-chairs of that group, France and the USA, as to the date, place and agenda of that meeting.

HEALTH

BOVINE SPONGIFORM ENCEPHALOPATHY—IMPLEMENTATION OF EUROPEAN UNION RECOMMENDATIONS

(Response to question raised by Hon. Mira Spivak on May 27, 2003.)

Health Canada's number one priority is protecting the health and safety of Canadians. To that end, the Department's goal in this investigation is to prevent the entry of the infectious agent, Bovine Spongiform Encephalopathy (BSE), into the human food supply.

We have a strong food safety system in Canada and we will continue to work with the Canadian Food Inspection Agency (CFIA) and all of our other partners in food safety, to strengthen and enhance the food safety systems in Canada.

Prior to the discovery of a BSE-infected bovine in May 2003, Canada had met the criteria of the Office International des Epizooties, for a BSE-free country. In July 2000, however, the European Union classified Canada as a level II country with respect to geographical BSE-risk, where the presence of BSE was unlikely, but could not be excluded.

Health Canada created a Transmissible Spongiform Encephalopathy (TSE) Secretariat and has brought together multi-disciplinary science and policy teams, including representation from the CFIA, to conduct risk assessments, provide scientific advice regarding TSEs and provide risk management strategies that take in account the science and other relevant consideration.

Health Canada is concluding a risk assessment related to imported processed meat products and we also note that CFIA has concluded a risk assessment of BSE in cattle in Canada to support a petition for a reassessment by the EU of their classification of Canada as a level II country. It is anticipated that these risk assessments will inform our concerns in relation to all aspects of BSE in the food supply.

Further, with regard to the specific issue of the use of brains and the spinal cords of Canadian cattle, Health Canada is reviewing all relevant policies and practices, including those related to specified risk materials as a result of the recent finding of BSE in one cow in Alberta. CFIA's list of specified risk materials include brain, eyes, dura mater, pituitary, skull, spinal cord, dorsal root ganglia, trigeminal ganglia, vertebral column, spleen, intestine, tonsils, lung, thymus.

If the results of Health Canada's review and CFIA's investigation lead to new information, the Department will revise its policies in consultation with the CFIA, industry and provincial territorial governments. We will continue to work together to ensure that BSE does not enter the human food chain.

If a decision is made to revise policies, Health Canada will consider a number of other related factors, such as the impact on other products, the costs of any new measures, and the feasibility of implementing them.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, under "Government Business, Bills," I would like us to address Items No. 1, 3, and 4 first, followed by Item No. 2, and then resume the order proposed on the Order Paper.

[English]

CANADIAN ENVIRONMENTAL ASSESSMENT ACT

BILL TO AMEND—THIRD READING

Hon. Colin Kenny moved the third reading of Bill C-9, to amend the Canadian Environmental Assessment Act.

He said: Honourable senators, I rise today to speak in favour of Bill C-9, to amend the Canadian Environmental Assessment Act. Making or amending environmental laws is time-consuming and complex. It is, however, an immensely important task because these laws affect our environment, our economy and, most important, future generations. I know that, when it comes to the environment, all honourable senators take their responsibilities seriously.

The objective of the bill is to ensure that our economy grows in ways that do not unduly degrade the environment or impact on human health, and I sincerely believe that the amendments set out in Bill C-9 help us to do that.

The origins of Bill C-9 go back to June 1998, almost five years ago, when the Canadian Environmental Assessment Agency began preparations for the five-year review of the Canadian Environmental Assessment Act. It was this review that generated the ideas that have been transformed into the amendments now before us.

From the start, the development of this bill has been characterized by measured steps aimed at solving problems with the current act. Prior to the drafting of Bill C-9, the government consulted extensively with the provinces, Aboriginal peoples, environmental groups, representatives of industry and individual citizens who have been involved in community assessments.

Parliament's review, now spanning over two years, has been equally rigorous. The bill is a step in the continuing evolution of vital assessment, an evolution that promotes innovation so that development projects are designed in ways that minimize and avoid negative environmental impacts.

Honourable senators, when the Minister of the Environment introduced this bill, he set out three goals for strengthening the Canadian Environmental Assessment Act. First, the revised process must be more predictable, certain and timely; second, the revised process must produce high quality assessments; and, third, the revised process must offer more meaningful opportunities for public participation.

These goals are supported by the provinces, Aboriginal people, industry and environmental groups. The Standing Senate Committee on Energy, the Environment and Natural Resources heard that there was a high degree of consensus among this wide range of interests in support of the manner in which the bill attempts to achieve these goals. This is quite an accomplishment, given the difficult and polarized debates that have often surrounded environmental issues.

Honourable senators, I urge you to support the adoption of this bill.

Motion agreed to and bill read third time and passed.

PENSION ACT ROYAL CANADIAN MOUNTED POLICE SUPERANNUATION ACT

BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

Hon. Yves Morin moved the second reading of Bill C-31, to amend the Pension Act and the Royal Canadian Mounted Police Superannuation Act.

He said: Honourable senators, I am pleased to rise to speak in support of Bill C-31, to amend the Pension Act and the Royal Canadian Mounted Police Superannuation Act. I am confident that you will find it worthy of your full support. I say that because, first and foremost, passage of this bill will help bring peace of mind to our men and women in uniform, both those in the Canadian forces and in the Royal Canadian Mounted Police. No one would disagree with that good intention. Second, I believe that you will come to the same conclusion as I have, that this bill should be passed without delay because it reflects the military requirements and responsibilities of the 21st century faced by our Canadian forces as we speak.

Bill C-31 deals specifically with improved disability pension insurance coverage for service personnel performing duties in areas defined as having an elevated risk attached to them.

[Translation]

As you are probably aware, Canadian Forces personnel can apply for a pension if their disability resulted from an injury or infection due to military service. Should military personnel die as a result of service, their dependents can also receive survivor's benefits. These benefits are provided to eligible military personnel in active service, both in Canada and abroad, in times of peace and war. The applicable legislation is administered by the Department of Veteran's Affairs.

[English]

You might be interested to know that disability pension payouts in total are by far the largest expenditure of this department. Of a budget of over \$2 billion a year, approximately \$1.5 billion is spent on pension payments. Most of this amount goes to Canada's veterans, those men and women who have been honourably discharged from service. That said, you should know that more than 5,000 men and women, about 3 per cent of the total receiving disability pension payments, are currently serving Canadian Forces personnel. To be clear on this, this bill applies only to currently serving members of the Canadian Forces and Royal Canadian Mounted Police.

Bill C-31, which speaks specifically to issues of comprehensiveness, equity and timeliness, has two main components. The first deals with what are known as special duty areas, a term with which, I know, most of you are familiar. Most of us tend to associate special duty areas with Canada's peacekeeping operations within United Nations service, and that is a pretty fair assessment.

[Translation]

For over fifty years, Canadian Forces have been serving in different capacities in operations abroad under the United Nations and other peacekeeping organizations.

During these operations, soldiers must often take part in combat. They are exposed to dangerous conditions that, normally, they would not be subjected to when serving in times of peace.

That is why Parliament enacted special duty areas legislation in 1964. This legislation made official a principle that had been applied since January 1, 1949. It stipulates that personnel taking part in operations in certain areas abroad, designated "special duty areas" by the Governor in Council, benefit from special pension provisions.

• (1420)

[English]

The special pension provisions deems members serving in special duty areas to be on duty 24 hours a day, seven days a week, for Pension Act purposes. That means that, from the moment members arrive in such an area, up to the moment they depart, they are covered for death or disability that may occur during or be attributable to their service in those special duty areas.

Bill C-31 will improve this coverage in two important ways. First, the process of declaring a special duty area will be done with increased speed. At the moment, the declaration of a special duty area takes too much time. It is a Governor in Council process which takes some time, too often an inordinate amount of time. With the passage of this bill, the Minister of National Defence or

the Solicitor General, in consultation with the Minister of Veterans Affairs, will be able to declare a special duty area and have that term apply in a much shorter time frame. This means that service personnel departing for overseas duty would know in advance, if the area they are moving into is a special duty area, and they will be assured of their 24-7 coverage and, as a result, they and their families will have greater peace of mind.

This bill will also add greater coverage for deploying Canadian Forces members and their RCMP counterparts. Their coverage will include training for the deployment, travel to and from the duty area, and even authorize leaves of absence from special duty areas. In short, they will have door-to-door coverage.

The second part of this proposed legislation offers a brand new category of service: Special duty operations, the designation of which also grants those affected the same disability pension coverage as those in special duty areas. The need for a new and separately designated category has been precipitated by the changing nature of warfare, especially by events such as those that occurred on September 11, 2001. The terrorist attacks in New York and Washington changed the way we saw the world.

[Translation]

It has become impossible to provide a static definition for theatres of military operations using geographical maps or specific dates. The deployment of our troops no longer respects the old rules of engagement during times of war. From now on, in the fight against terrorism, one part of our troops can be in precisely designated areas and be supported by troops assigned to other regions on land or sea. The primary characteristic of special duty operations is the extremely high risk involved, which is higher than the normal risks of duty during times of peace. The current bill also includes high-risk situations occurring on Canadian soil, particularly disaster relief and search and rescue operations.

[English]

Special duty operations, as proposed in this bill, are not defined by their location, but rather by their element of defined risk. When deployed to a special duty operation, either in Canada or overseas, service personnel will benefit from the same coverage as those deployed to special duty areas.

The Minister of National Defence will be able to declare a special duty operation.

Similarly, the bill proposes to give the Solicitor General the same authority, under the Royal Canadian Mounted Police Superannuation Act. The Solicitor General will be able to designate areas of operations outside Canada as either special duty areas or special duty operations. The commissioner of the Royal Canadian Mounted Police will be able to deploy officers to special duty operations in Canada, if the Minister of National Defence has designated them as such.

Honourable senators, I believe that we all agree that the events of the past few years on the world stage demonstrate that we must be able to adapt swiftly to rapidly changing military and political realities. If we are to ask our police and armed forces to stand on guard for us, then the least we can do is ensure that they have the fullest disability coverage if they need it.

Honourable senators, I urge speedy passage of this important bill.

On motion of Senator Kinsella, for Senator Atkins, debate adjourned.

PUBLIC SERVICE MODERNIZATION BILL

SECOND READING—DEBATE ADJOURNED

Hon. Sharon Carstairs (Leader of the Government) moved second reading of Bill C-25, to modernize employment and labour relations in the public service and to amend the Financial Administration Act and the Canadian Centre for Management Development Act and to make consequential amendments to other Acts.

She said: Honourable senators, I rise to move second reading of the proposed Public Service Modernization Act. Bill C-25 will amend an important piece of legislation that impacts profoundly on one of our country's vital assets, our federal public service.

The Public Service of Canada has changed considerably since the first Canada Civil Service Act was introduced in 1868. Its growth has mirrored that of our country. At the time of Confederation, the public service was relatively small and its activities were limited. It was seen as an inefficient, highly partisan organization that often appeared indifferent to the wishes of the public. Times have certainly changed.

That change started in 1918 when Prime Minister Robert Borden made public service reform a central plank in his election platform. He categorized it as the second greatest priority for Canada, after winning the war in Europe.

Borden recognized that a talented, impartial and professional public service is essential to a country's prosperity and quality of life. That was true 80 years ago, and that is equally true today.

We are fortunate in Canada to have a public service that is respected around the world. Despite the health and vitality of the institution, there is a clear and pressing need for continuous improvement and reform. The world is changing. Factors like technological innovation and globalization are making day-to-day work more complex. Public expectations of government are rising as citizens demand faster answers and better service. We need to ensure that the public service can continue to pursue excellence in the 21st century. This requires that the public service have the tools and support that it needs to serve Canadians effectively.

[Senator Morin]

[Translation]

Honourable senators, as you know, for some time now we have been trying to improve human resource management in the public service. Recently, we have begun to take steps to stop harassment, strengthen diversity in the workplace, support employees with a disability and encourage learning.

[English]

More needs to be done, particularly from a legislative standpoint. The acts that provide the framework for human resource management are the foundation upon which all other public service HR practices and policies are built. It has been in place, essentially unchanged for over 35 years. Its rules are becoming less appropriate for today's reality. It is time to modernize our legislative framework and that is exactly what this bill proposes to do.

Honourable senators, the proposed Public Service Modernization Act represents a balanced approach to achieving many important objectives of human resources modernization and to creating an exemplary work place. It is a starting point for the elimination of unnecessary staffing procedures, and for laying the foundation for more constructive labour management relations. It will clarify the responsibilities and strengthen the accountability of the key players in the human resource management system, the Public Service Commission, deputy heads and the Treasury Board. It will provide greater support for all employees in the area of learning, so that they can pursue their professional development and continuously meet the needs of the public service.

Bill C-25 includes two new or completely revised acts: The Public Service Employment Act and the Public Service Labour Relations Act and it amends two other statutes, the Financial Administration Act and the Canada Centre for Management Development Act.

• (1430)

Some people have questioned the decision to incorporate two acts into one piece of legislation. The reason is fairly straightforward. Staffing and labour relations, while related in many ways, are also very different. They have very different regimes and trying to force them together under one act would have been unworkable. That said, they are both integral parts of effective human resources management and must be recognized as such. Hence, two acts are in one bill.

[Translation]

Human resources management is complex and multi-faceted. Consequently, drafting this bill took a great deal of time and presented many challenges. The work was done by the Task Force on Modernizing Human Resources Management, established by the Prime Minister in April 2001. The task force and the President of the Treasury Board held extensive consultations before proposing the measures contained in this bill.

[English]

The bill has recently passed through the parliamentary committee process. Over a period of three months, the House of Commons Standing Committee on Government Operations and Estimates heard testimony from over 20 organizations and individuals including eminent academics, bargaining agents, the Clerk of the Privy Council and public servants representing several key functional areas. It systematically reviewed 175 proposed amendments, accepting 40. While these amendments do not change the key elements of the bill or what it intends to achieve, they nonetheless strengthen it in certain important areas.

Honourable senators, the majority of the amendments that did not pass would have applied the Canada Labour Code to the public service. True, Bill C-25 borrows where appropriate from the code. However, the bill adheres to the premise that the government is not just another employer. It is a unique organization that first and foremost must serve the public interest. I welcome this opportunity to speak for a moment about each of the key aspects of the bill. Let me begin with staffing.

The current public service staffing system was designed with the merit principle as the cornerstone of public service hiring. To that end, almost 100 years ago, the government created the Civil Service Commission, now the Public Service Commission, an independent agency accountable to Parliament. Its mandate is to ensure that appointments to and within the public service are based on merit.

Over the years, in trying to achieve the objective of protecting merit, our current system sets prescriptive and time-consuming mechanisms for meeting a court-defined "best qualified" candidate for a given position. The system that has emerged over the years is now, in the words of the President of the Treasury Board, "an obstacle course." Many managers try to get around the system by hiring term employees. The proposed public service modernization act proposes to change this and remove unnecessary red tape associated with staffing.

Honourable senators, make no mistake. Bill C-25 preserves the Public Service Commission and strengthens its authority to protect merit. However, Bill C-25 would return the merit concept to its original intent of ensuring that competence is the basis for appointments by requiring that an individual meet the qualifications for the work and that the appointment process be free from political interference. Merit could also include the legitimate consideration of operational requirements and the needs of the organization and the public service.

[Translation]

The purpose of Bill C-25 is to give the responsibility for staffing to those who should have it, namely, the managers. They are the most aware of the skills required in order to provide results for Canadians. Deputy heads would establish the qualifications

required for the work to be carried out, as well as operational requirements and organizational needs, since these are integrally linked with their management responsibilities.

[English]

Of course, with greater delegation and flexibility comes the need for clear and effective accountability. With this in mind, the legislation proposes to establish a new, independent public service staffing tribunal that would hear internal appointment complaints, assisting in protecting the integrity of the staffing system against abuse of authority. The legislation also proposes to focus the mandate of the Public Service Commission more tightly on ensuring merit and on monitoring, investigating and auditing staffing activities.

Several amendments passed by the Standing Committee on Government Operations and Estimates will strengthen the independence of the commission and its audit role. One amendment, for example, requires that both Houses of Parliament, the Senate and the House of Commons, approve the appointment of the President of the Public Service Commission. Another amendment will increase the commission's audit functions. Together, these and other measures in the bill, such as the greater clarification of roles and responsibilities for staffing, will ensure that merit remains the basis of staffing.

The labour relations section of the bill would bring about other badly needed reforms. Over 85 per cent of federal public servants are represented by bargaining agents. There is a clear and pressing need for constructive and productive labour relations. The employer and bargaining agents must learn to view one another not as adversaries but as partners in a collective effort to create an exemplary work environment.

The proposed public service modernization act is designed to encourage this. Among other things, the legislation requires each deputy head to establish a joint consultation committee as a forum to improve dialogue and consultation on workplace issues. It also encourages the employer or deputy heads to enter into co-development arrangements with bargaining agents that allow for joint discussion, problem solving and mutually agreed solutions without hindering the responsibility of management to make decisions.

[Translation]

The bill has been drawn up with the purpose of modernizing dispute management in the workplace. It requires departments and agencies to provide informal dispute management services to all public servants. This is an important stage that can help resolve disputes before they give rise to formal proceedings.

[English]

Other measures proposed in the legislation include provision to foster greater efficiency in the collective bargaining process and provisions to ensure that Canadians will continue to receive essential services in the event of labour disruptions.

The final element of legislative change that I would like to discuss comes in the area of learning. In many respects, learning is the foundation of all public service reform activities. Effective learning is needed to ensure that employees share a common set of values. Learning is also the basis of leadership development and capacity building. Ultimately, the ability of the public service to continue to deliver results for Canadians will depend significantly on its success in promoting a culture of continuous learning and improvement.

The current approach to learning in the public service is fragmented and uncoordinated. That is why Bill C-25 proposes to create the Canada school of public service. The new school will combine the Canadian Centre for Management Development and Training and Development Canada. The mandate of the new school is to offer corporate and other learning and development activities to all public service employees and managers across the country.

This integration of learning services is key to better deliver training and developmental activities. It is also key to ensuring that our public service workforce has the capacity and knowledge to be able to adapt to change.

Honourable senators, other important areas covered by the bill are political activities, appointments, whistle-blowing and harassment. The new act would establish a clear regime for political activities that balances the right of employees to engage in the political process with the principle of political impartiality in the public service. Amendments were proposed to strengthen the bill.

To further reinforce the protection of merit, the committee also moved amendments that will increase the scope of the Public Service Commission's audit function. Together, these and other measures in the bill will ensure that merit remains the central principle guiding staffing.

Amendments were also proposed to help build a supportive working environment, notably one that is free from harassment and where public servants can feel safe to speak out against perceived wrongdoing. One issue that received some attention is a perennial concern for many parliamentarians, and that is the issue of geographic criteria in staffing. Many Canadians have expressed the view that all jobs in the federal public service should be open to qualified people no matter where they may live. This is a fine idea in principle but unfortunately there are some practical problems.

• (1440)

Often when jobs are open for competition across Canada, managers receive literally thousands of applications. The commission has lacked the physical capability for handling this volume of interest promptly enough to enable managers to respond to changing needs and priorities. While this is not addressed in the legislation, it is nonetheless being addressed by the Public Service Commission, and several projects are now ongoing to ascertain how new technologies can help alleviate the capacity concerns.

[Senator Carstairs]

Honourable senators, Bill C-25, the public service modernization act, will have a profound and long-term impact on the life of the public service and, in turn, on its ability to meet the needs of Canadians. It is balanced legislation that has been thoroughly studied and improved through the committee process.

[Translation]

The greatest challenge lies ahead. Change of this scope in the public service will not be done easily, nor will it be done quickly. Our human resources systems have existed for a long time and some of our approaches are well established. Because of the complexity of our systems, implementation will be staggered over several years, while new institutions, like the Canada School of Public Service and the Public Service Staffing Tribunal, are created. This time will allow us to update our systems and guidelines resulting from the new legislation, and to train employees, managers and bargaining agents.

[English]

Of course, as the bill's implementation takes place there must be regular and diligent reporting. Under this bill the President of the Treasury Board will report to each House of Parliament annually on the implementation of the human resources management provisions of this act. This would be in addition to the current requirements to report unemployment equity and official language issues.

Bill C-25 will also be subject to review in five years. The bill had initially proposed a seven-year review, but the standing committee in the other place felt that five years was a more appropriate period.

Honourable senators, there is much work to do, but I am confident that the talented and dedicated men and women in the public service are up to the challenges. Certainly public servants are anxious to get started and to put a new staffing regime in place, and to embark on a more cooperative relationship with bargaining agents. They want to continue improving and building upon an institution to which they have dedicated their careers.

Honourable senators, I wish to digress for a moment from my speaking notes. Originally I was not to give this speech; it was to be given by Senator Day but he has gone to the ceremony at Juno Beach. However, I asked for the briefing notes and any preparatory information. As I was reading it, I thought, "My goodness, when is the last time I really entered into a discourse about the public service?" I have to say that it was in a fourth-year Canadian history exam in 1962 at Dalhousie University. The one question on the exam concerned the value of the Public Service Act and its contribution to Canadian life. It was interesting to find myself, some 41 years later, rethinking some ideas about the public service.

I believe that Bill C-25 is a sound piece of legislation that will give the public service the tools needed to continue serving Canadians with excellence. I know many honourable senators are looking forward to carefully and thoroughly studying this important bill.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Would the honourable senator accept a question of clarification?

Senator Carstairs: Yes.

Senator Kinsella: First, the honourable senator has drawn our attention at our second-reading debate to a restructuring of the Public Service Commission. My understanding is that this new structure will have a permanent commissioner here in the National Capital Region, and part-time commissioners across the country. Since the honourable senator has underscored the importance of the merit principle, leaving intent or motivation aside, is the government not concerned that structurally that kind of model with these part-time public service commissioners might lend itself to political appointments and therefore completely defeat the fundamental and laudatory principle of the bill, which is the maintenance of the merit principle?

Senator Carstairs: I have to say that I do not for several reasons. The first reason is the change in process whereby both the Senate and the House of Commons would, by resolution, have to approve the appointment of the head of the Public Service Commission of Canada, and I believe that is a very important change.

In terms of the outreach across the country, and this is personal, those of us who live outside of the centre of this country have been concerned for a long time that the public service is dominated by individuals who have spent their entire lives living in this central core of the nation. I am positive in my approval that this new principle will make it possible to attract bright talent, no matter where it exists, with the experience of having lived elsewhere.

Senator Kinsella: That is very helpful. Having the appointment of the head of the Public Service Commission ratified by the two Houses of Parliament would ensure no political interference. Would that same principle not give that same guarantee if it were extended to the appointment of these part-time commissioners?

Senator Carstairs: Honourable senators, I think that would be cumbersome. That would be my response. However, that issue is worthy of some further discussion in Senator Murray's committee, and I am sure we will get to that discussion.

Senator Kinsella: I have another question of principle. I listened carefully to the honourable senator's speech, which was very helpful. I did not detect any reference to ministerial responsibility but I might have missed that. Would the minister not agree that the public service of a country — and I believe the senator has alluded to the fact — is a special kind of area of employment? Being a public servant it is not any old job, and there is a relationship with the executive through ministerial responsibility. Where is the interface between the role and function of the modernized Public Service of Canada and the ministerial responsibility?

Senator Carstairs: The interface remains exactly the same as it has always been. I would concur with the honourable senator that it is a strange interface, because at the same time you want the

Public Service Commission to be totally independent and separate, and yet clearly all of the jobs come under the direction of ministers, through their deputy ministers, and that line of authority.

If the honourable senator is looking for a chart drawing of the exact lines, that is not possible. However, the bill ensures that the Public Service Commission can get highly qualified people to serve in our public service. At the same time — and I know that Senator Oliver will certainly be addressing this issue in committee — it ensures that our public service is reflective of the true dimensions of Canada, including the two linguistic groups. That is why I was pleased to see in the amendment process a change to the legislation that speaks specifically to linguistic duality.

• (1450)

I also think that, clearly, we need more visible minorities within our public service. We need a true reflection of Canada in the public service.

Senator Kinsella: The honourable senator drew our attention to the establishment of a new public service school. I might not have the terminology down exactly in that regard, but I understand that it will be rolled into the Canadian Centre for Management Development and Training.

When examining the Estimates made available for the Canadian Centre for Management Development and Training, National Finance Committee members will often look at the board of directors. Lo and behold, they have found that most members of the board of directors are in positions such as deputy secretary to the Treasury Board, et cetera.

As there has been great discussion in both Houses of Parliament concerning avoiding a conflict of interest, et cetera, sometimes the questioning in the Standing Senate Committee on National Finance in the past was to this effect: Is there not a possibility of conflict between the board of directors and the budget making process?

Is it a principle of the new bill that the board of directors of this school will be at arm's length? What will be the relationship?

Senator Carstairs: Honourable senators, I do not know because I do not think it is specifically in the bill. Again, it is worthy of discussion.

I must say, though, that I am less concerned about that issue than I have been when I have followed some of the debates that have taken place. As an educator, my primary concern is to ensure that programs are in place to take bright and talented people and give them the skills they require so that when they appear before our committees they have knowledge and expertise. I am somewhat dismayed on occasion when we have public servants appear who, quite frankly, cannot answer the questions asked of them. I sometimes wonder why they cannot answer our questions. My concern is that we have to be able to better train them so that they can access that material more rapidly. Maybe that is all in the area of technology and they need to be better trained in that area.

I think that a school is essential and that training needs to be beefed up considerably.

Hon. Lowell Murray: Honourable senators, I have a question to ask the minister. Before I do so, let me thank her for her kind references to Sir Robert Borden and to his seminal contribution to the public service legislation and to the public service culture, if I can put it that way, that we have today. I do so on behalf of Senator Lynch-Staunton, who is too shy to mention that Sir Robert appointed his grandfather to the Senate, rescuing him from Hamilton, Ontario, and on behalf of Senator Gauthier, whose grandfather, Dr. Louis-Philippe Gauthier, served in the Unionist government of Sir Robert in the other place during the First World War, only to be defeated by the ungrateful Liberal candidate Rodolphe Lemieux in the subsequent election in the Gaspé. If one watches and listens carefully these days, one can sometimes hear and see a burst of the old "Bleu" tradition coming from Senator Gauthier, and even from Senator Lynch-Staunton when he is at his best.

What would Sir Robert have thought, and what does the honourable minister think? Indeed, what principled explanation can she give for eliminating the oath of allegiance in this legislation?

Senator Carstairs: That is interesting, honourable senators, because there are many, who I consider to be public servants, who do not take the oath of allegiance at the present time. For example, Senate staff members do not take the oath of allegiance. There are others who have not been asked, over the years, to do it.

It is also interesting that the oath of allegiance is not taken in the United Kingdom or Australia.

Interestingly enough, I did a little research on this matter, which will not surprise Senator Murray, and pulled up a Hansard from the House of Lords of January 22, 2003, in which it was reported that Lord Laird asked Her Majesty's government:

Whether any new appointees to the Civil Service in any part of the United Kingdom are required to take an oath of allegiance; if so, which parts of the Civil Service require this; who they require to take this; and to whom it is made.

The Minister for the Cabinet Office and Chancellor of the Duchy of Lancaster, Lord Macdonald of Tradeston, replied:

Under the terms of the Civil Service Code, members of the Home Civil Service owe their loyalty to the administration in which they serve.

No civil servant in the UK is required to take an oath of allegiance.

There have been changing and evolving systems. As honourable senators know, public servants are required to take an oath of loyalty. They are required to take an oath which for many of them requires secrecy, but they have not in this legislation been asked to take an oath of allegiance.

[Translation]

Hon. Jean-Robert Gauthier: Honourable senators, I am happy that the government is introducing a review of the whole Public Service of Canada Act, including labour relations. My concern is about the Public Service Commission. There will be a Public Service Staffing Tribunal, to which employees will be able to appeal when there are problems in the staffing or classification process.

Will the responsibilities of this tribunal be clearly laid out in the legislation, or is this something that will be done in the future?

[English]

Senator Carstairs: Honourable senators, the principles are outlined as they are in most pieces of legislation. The actual details will come through the regulatory process, as is the case with so much legislation.

[Translation]

Senator Gauthier: My second question deals with language training. If I understand correctly, there will be a Canada School of Public Service. Will this institution or this establishment be responsible for language training for the entire public service in Canada?

[English]

Senator Carstairs: Honourable senators, I do not think so. I do not think that is the vehicle by which the language training will be directed. It is not at the present time, under any one of those two schools, nor do I anticipate that it will be under this legislation. Language training is separate and apart.

Hon. Anne C. Cools: Honourable senators, perhaps I misunderstood the answer of the minister to the question of Senator Murray who asked the Leader of the Government why the oath of allegiance was removed. I heard her say that it is not required in the U.K. or in Australia. However, I did not hear her tell us why it is being removed in Canada.

Senator Carstairs: Honourable senators, it is part of the modernization of the public service. It was decided that it would be consistent with practices in other countries upon which our tradition is built, in particular the United Kingdom, where, as I indicated, public employees are not required to swear an oath of allegiance to the Queen. That is the reason it has been changed.

Senator Cools: To whom, then, will public servants owe allegiance?

Senator Carstairs: They will owe loyalty to the Government of Canada, to which they will take an oath of office and secrecy.

Senator Cools: That means, then, that public servants will be compelled to have different loyalties at different times, depending on the colour of the government of the day or the political complexion of the government of the day. I always understood that the oath of allegiance was supposed to transcend partisanship. That was why we had an oath of allegiance. The oath of allegiance meant loyalty to a principle higher than the colour or the political complexion of the government of the day. That was my understanding of "allegiance." Perhaps it has changed recently.

(1500)

Senator Carstairs: No, I do not think so, honourable senators. In taking the oath of office, they offer to the people of Canada the best of their talents, abilities and skills.

Senator Cools: Am I to understand, in following the honourable senator's reasoning, that every time there is a change in government, the members of the public service will make a new oath?

Senator Carstairs: Of course not. When we refer to the government of Canada, we refer to it as a generic entity.

Senator Cools: Governments of Canada are not generic entities. Her Majesty is a generic entity but the Government of Canada does change.

Hon. Tommy Banks: Honourable senators, pursuing the same question, the leader may recall that I did write to her respecting his question. Can the leader confirm that the words contained in the oath of allegiance refer to the Government of Canada? It is my understanding, which is rudimentary and has only been earned recently, that the Crown represents the people. The Crown rises above mere government, not to cast any aspersions or doubt on the good intentions of any government.

It seems to me that the Crown supersedes or transcends government per se. I may be an old stick-in-the-mud, but I have difficulty with the concept of an oath of allegiance to anything but the Crown in our system. Public servants are paid by the Crown, or at least most are. Perhaps I should ask for confirmation of that. Are those public servants we referred to in this bill employed by the Crown?

Senator Carstairs: If honourable senators look at their paycheques, they will see that those cheques are received from the Government of Canada. They do not come from the Crown.

The Public Service Employment Act requires that, in an oath or solemn affirmation of office, the public servant promises to be faithful and honest in his or her service to Canada.

Senator Murray: Am I not correct, though, in stating that there is an oath of allegiance taken at the present time by people joining the Public Service of Canada and that this bill will eliminate it?

Senator Carstairs: The honourable senator is right, but my understanding is that some have not taken it, to be fair.

Let me read the exact wording of the oath. In Part 4, under section 54, we see the following:

I swear (or solemnly affirm. —

Some religious groups in this country who will not swear on the bible —

that I will faithfully and honestly fulfill the duties that devolve on me by reason of my employment in the public service of Canada and that I will not, without due authority, disclose or make known any matter that comes to my knowledge by reason of such employment.

The other place added the words, "So help me God" or the name of a deity which is known to a particular individual in religious observance.

Senator Cools: Honourable senators, the matter is becoming more complex by the minute. We have just been told that public servants are required to be loyal to themselves. Loyalty, as we know, is one of the first orders of any administration. I would still like to get to the fundamental question.

I know we have had episodes with Mr. Manley and his unseemly statements about the monarchy. Why is this government systematically dismantling, as far as I am concerned, the system of governance? My question is: Why is the oath of allegiance being removed?

I do not have an answer to that yet. We all know how critical the question of the loyalty of the public service is, as is the question of the loyalty of senators. Senators can lose their Senate seats for a change in allegiance.

Why is this government removing the oath of allegiance? It is something that means a lot to many Canadians; I would even say to most Canadians. I am not satisfied that I have yet been told why this is being done.

Senator Carstairs: I recommend to the honourable senator that she attend the committee meetings. All senators are entitled to go. She can put that question to the witnesses who are called before the committee.

Senator Cools: Honourable senators, my comments provide me with an opportunity to put my question on the record here. This honourable senator would like to know if the leader intends to reinstate me as a member of that honourable committee. I am no longer a member of that committee because she removed me. If she wants me to go to that committee, she should reinstate me.

Some Hon. Senators: Order!

Senator Cools: I am quite in order. If you want to discuss it here, I would be happy to do that.

Senator Carstairs: If the honourable senator is asking me why she is not a member of that committee, it is because she has not shown loyalty to the government.

Senator Cools: I have shown loyalty to Her Majesty, and that is what I am sworn to do. I will never swear loyalty to anybody else other than to Her Majesty. Some of us here believe in that principle. Perhaps the leader does not, but some of us do. I submit that the majority of Canadians believe in that principle and I would invite you to join them.

Senator Carstairs: Honourable senators, with the greatest of respect, my family has been in this country for generations. My Acadian family comes from the area of Nova Scotia near Louisburg. There is no question of my loyalty to this country. I would never question the honourable senator's loyalty to this country and I will not have my loyalty questioned.

Some Hon. Senators: Hear, hear!

Senator Cools: Honourable senators, the issue of taking an oath is not about loyalty to a country. The issue is about allegiance. Allegiance is owed to "someone," not to "something." Everyone knows that countries and boundaries of countries come and go. They change. That is why we have the concept of a king or queen or a Crown that is perpetual and undivided.

I just want to say that the fact that the Leader of the Government or her grandparents were born here means nothing to me. I was not born in this country and, quite frankly, it does not matter a scrap to me. I feel just as loyal to Her Majesty and to this system as anybody else.

On motion of Senator Bolduc, debate adjourned.

POINT OF ORDER

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I rise on a point of order.

Honourable senators, I have just been accused by the honourable senator at the end of the chamber of being a racist, and I demand that the honourable senator apologize.

• (1510)

Hon. Anne C. Cools: I did not accuse the honourable senator of being a racist. As she so rudely, in that bombastic aggressive way, walked by me and said something to me, I said, "I would love to." She said, "Are you calling me a racist?" I said, "I would love to do it," and, if you want, lady, I could do it too. My point was that it was a very racist statement. When senators begin to compare each other to who was born here and who lived here longer, then I think that those are racist suppositions.

Some Hon. Senators: Order!

The Hon. the Speaker: Honourable senators —

Senator Cools: She raised the point.

Some Hon. Senators: Order!

The Hon. the Speaker: I remind honourable senators of the provision in the *Rules of the Senate* in respect of inappropriate language used in the Senate. Rule 51 says, "All personal, sharp or taxing speeches are forbidden." I think it is fair to say, honourable senators, by analogy, that that would extend to matters such as the one that is being raised here. I remind you of that and I would request that you observe the rules.

Senator Cools: I would say, honourable senators, that I was living and existing within the rules. What the honourable senator just did was to come down here and —

Some Hon. Senators: Order!

The Hon. the Speaker: A point of order was raised and I interpreted it. I should hope that honourable senators would understand its relevance. I reminded honourable senators, in response to the point of order raised, in effect giving a ruling, that we have rules that apply in these circumstances. That is my response. Our rules also provide that it is not a debatable matter. We will move to the next item.

[Translation]

MEMBERS OF PARLIAMENT RETIRING ALLOWANCES ACT PARLIAMENT OF CANADA ACT

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

Hon. Fernand Robichaud (Deputy Leader of the Government) moved the second reading of Bill C-39, to amend the Members of Parliament Retiring Allowances Act, and the Parliament of Canada Act.

He said: Honourable senators, the purpose of Bill C-39 is to correct some legislative provisions concerning the remuneration of parliamentarians.

I must point out that this bill makes absolutely no changes to the existing policy on this. The corrections address four things: salaries for committee chairs; the rounding down of minister's salaries; disability allowances; and certain clarifications relating to pensions.

First, concerning committee chair salaries, this bill remedies an oversight discovered in the changes made in 2001. As a result of this oversight, chairs and vice-chairs of standing committees received salaries, while their counterparts on special committees did not. Since the work done by chairs and vice-chairs of Senate special committees is the same as that done by their colleagues on standing committees, the bill is intended to provide them all with the same treatment.

The second amendment concerns the rounding down of ministers' salaries to the nearest hundred dollars. Bill C-39 amends the provisions on rounding down. Parliamentarians' salaries are generally rounded down to the nearest one hundred dollars to facilitate administration. The changes made in 2001 applied this to all salaries except ministers' salaries, which were quite simply omitted inadvertently. In other words, honourable senators, this bill re-establishes the rounding down for ministers that was in place until 2001.

Bill C-39 includes a provision to make a more exact calculation of the disability allowances made to parliamentarians who resign because of disability. Since the current provisions do not state what salary should be used in the calculation, the disability pension could be based solely on the parliamentary salary and not on other allowances paid before the parliamentarian left. The purpose of the legislation is to ensure that all payments made before the parliamentarian begins receiving a disability pension be considered. The list of all the payments in question makes it possible to clarify this point.

Finally, the Chief Actuary indicated in his 2001 annual report that the provisions of the pension plan concerning the rate of accumulation of benefits for years of service after 2001 should be updated in order to eliminate any confusion about them. Therefore, Bill C-39 takes the Chief Actuary's comments into account by giving details on the application of provisions relative to rates of accumulation for years of service after 2001. These changes do not affect the guidelines issued by the pension plan.

Honourable senators, Bill C-39 corrects several legislative provisions dealing with the remuneration of parliamentarians. However, it does not propose any change to the policies involved, and I hope that it will be supported by all senators.

[English]

Hon. John Lynch-Staunton (Leader of the Opposition): Would the Deputy Leader of the Government allow a question?

Senator Robichaud: Certainly.

Senator Lynch-Staunton: What is the justification for rounding down? It is not rounding up but it is rounding down, which means that if the salary came to \$9,999, it would be rounded down to \$9,900. What is the justification for that? Why is it not rounded to the closest \$100?

[Translation]

Senator Robichaud: Honourable senators, I asked why this method was being used. I was told simply that this practice of rounding down to the nearest \$100 has been the practice for some time now to facilitate management.

Using your example, a salary of \$100,999 would be rounded down to \$100,900, which is the nearest \$100 down. This appears to be a long-standing practice.

[English]

Senator Lynch-Staunton: Honourable senator, what is the justification? I would like to know why, with all the electronic machines and calculators we have today, anything should be rounded off in the first place? What is the point? Would the honourable senator prefer that I ask the question of officials in committee? I shall do that.

[Translation]

Senator Robichaud: I intend to ask this question, because I agree with your comment. Given the means currently at our disposal, how can this be a problem? All the calculations are normally done according to pre-established programs, and the figures have been provided to us. If, in committee, you wish to ask this question, I will listen very carefully to the answer provided.

[English]

Hon. Colin Kenny: Honourable senators, I have two questions for the Deputy Leader of the Government. Is my understanding correct in that no individual can draw two salaries, for example, as the chair of one committee and the deputy chair of a special committee? Is it possible, under the act, for people to draw two salaries or is it possible to draw only one salary?

• (1520)

The second part of my question has precisely to do with retroactivity and our friend Senator Nolin. My recollection is that the initial legislation had a retroactive component for chairs and deputy chairs. When is the starting date for this, and how far back will it be retroactive? Will it be retroactive to the beginning of the Parliament, for example?

[Translation]

Senator Robichaud: Honourable senators, I cannot confirm or indicate if it is retroactive. Currently, this bill grants the chairs of special committees the same salary as that granted to chairs or vice-chairs of standing committees. This was not done during the amendments made in 2001. I will have to find out whether this will be retroactive. During consideration in committee of this bill, however, it will be possible to ask questions about the retroactive nature of these changes. However, currently, I do not think this is possible.

[English]

Senator Kenny: I raise this only because there was a period of time when Senator Nolin was serving as chair of a special committee while others were chairs of standing committees who were drawing pay. There was that overlap. If the intention is to correct this anomaly, there seems to be some logic in doing so in a retroactive fashion, if there is recognition that an error was made.

There is also the question of whether an individual can draw two salaries at the same time. My assumption is that that is not possible, but perhaps the honourable senator could confirm that for the house, please.

[Translation]

Senator Robichaud: Honourable senators, the allowances paid to a committee chair or vice-chair are set out in the Parliament of Canada Act. In 2001, when all the changes were made, a new formula was established to determine the sessional allowances of members.

The standard practice is to try as much as possible to divide the duties of chair among the senators, so that everyone has an opportunity to do this. But as to whether this means people are entitled to two salaries, I will have to check, to answer the honourable senator.

[English]

Hon. Terry Stratton: Honourable senators, while I appreciate the chairs and deputy chairs of special committees getting paid as others are because they work just as hard, my concern, and I must put it on the record, would be how many special committees we are likely to have now that there is an incentive to create them.

[Translation]

Senator Robichaud: Honourable senators, I do not think we could decide how many committees we are going to have or have had. I think that, when a special committee is appointed here or in the other place, it is only fair that the chair or vice-chair receive the same salary as the chairs or vice-chairs of a standing committee. The purpose of this legislation is to correct this situation. I feel the current situation is not entirely fair to those who are chairs or vice-chairs of special committees.

[English]

Hon. Serge Joyal: Honourable senators, I would like to inform my colleague that I have not raised this issue with the Speaker, even though it concerns the Speaker. I would certainly like to pay respects to His Honour in that context.

My question is of the Deputy Leader of the Government. When we adopted the previous bill on salaries and compensation, I drew the attention of my colleagues in the chamber to the fact that the salary and compensation for our Speaker in the Senate was not at par with the one in the other place. I draw to the attention of my colleagues that our Speaker occupies the fourth rank in the order of precedence, the first being the Governor General, followed by the Chief Justice of the Supreme Court of Canada, the Prime Minister of Canada, and then the Speaker of the Senate, and after the Speaker of the Senate, the Speaker of the other place.

There is a reason why I contended that our Speaker should receive identical compensation to the one in the other place. Senator Mahovlich said it should be more, but he is negotiating for hockey players and they have a higher bar. Honourable senators, I believe that His Honour's salary should be at par because, as the Speaker, he has to be on duty all the time in case the government decides to recall this house. Because he occupies the rank that he occupies, his representative duty, foreign and national, is at par, if not higher. I have exercised restraint in not using this opportunity of adjusting to correct what I consider to be a flaw in the bill we adopted some years ago. It is important

that we maintain the parity principle between the two Houses. The Speaker occupies a specific role on behalf of this chamber. As such, he has exactly the same responsibility as the Speaker in the other place. For instance, if our house has to intervene in court, it is our respected Speaker who acts on behalf of the Senate. He is, in a way, the embodiment of our institution. Our institution and constitutional base is exactly the same as the other place. If there is one person who should be put at par with the other place, I think it is our Speaker.

Again, I have not approached His Honour on this issue. I did raise it with the previous Speaker, and I think it is important that the government look into it. I know that we cannot, without a Royal Recommendation, increase the expenses from the public purse. However since we are reconsidering what the honourable senator has properly termed our mission, the chairs and deputy chairs of special committees, or ministers and so forth, we ought to use the opportunity to state that principle, which is very fundamental.

Some Hon. Senators: Hear, hear!

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I wonder whether the sponsor of this bill, reflecting on what our colleague Senator Joyal has said, would agree. I agree with the general thrust of Senator Joyal's proposition given the order of precedence of the Speaker of the Senate, our bicameral Parliament, and our duty to maintain and ensure the dignity of the office and this place.

• (1530)

However, by way of a little more precision, Senator Joyal said that the Speaker of the Senate has to be available in case the house is called back by the government. Yes, indeed, it is the government that indicates that the house is to be called back. However, because any senator can take the Chair in the Senate, it is not necessary to have the Speaker available, or the Speaker *pro tempore*.

Equally, unlike the Speaker in the other place, who decides points of order and that is it, the Speaker in the Senate gives a decision on points of order that are subject to review or overturn by honourable senators — all of which underscores the point that all honourable senators are equal in the Senate of Canada, and the Speaker is equal with all honourable senators.

Notwithstanding that, I agree with Senator Joyal that the Speaker has a special role, not only because of the order of precedence but, more important, because ours is a bicameral system.

I agree also that the Speaker of the Senate should have a house. There are many houses available in the National Capital Region that are owned by the Crown, and perhaps this would be a good project for senators to advance at some point in time.

I am equally interested in the compensation afforded to the whips of both Houses. I wonder whether the honourable senator might agree that there should be greater equity in compensation for our whips.

[Translation]

Senator Robichaud: Honourable senators, this bill seemed to be quite simple and the debate should go smoothly. However, honourable senators have several questions to ask and good suggestions to make.

As for the second last suggestion, I believe it is too early to consider the issue of residence, but this could be applicable later.

We could also discuss the whips' duties, which were not recognized in 2001.

[English]

Senator Lynch-Staunton: Before moving the adjournment of the debate, I think colleagues will be interested to know that we have spent more time here in the Senate at this first stage of the bill than the other place did on all stages. It was introduced there with leave on the second of June. I calculate that it took the House of Commons about 15 to 20 minutes to dispose of this bill. It was read the first time and printed with leave. There was a speech from the Leader of the Government in the House, a reply by the Canadian Alliance representative and one by the Bloc.

I will just read how the House treated this bill because we feel here that all bills are important. They are all to be treated the same way, whether they are called technical — do not worry about them — or whether they are like Bill C-25, very complex. They are all deserving of similar study.

Let me read how they handled this. The Hansard of June 2, 2003, reads as follows:

(Bill deemed read a second time on division, deemed referred to a committee of the whole and reported without amendment, deemed concurred in at report stage on division, and deemed read a third time and passed on division)

I think we can do better than that.

Hon. Anne C. Cools: I have heard of bills being deemed to have been read, especially the resuscitation-revival process that they use in the House of Commons, but how can a bill be deemed to be passed on division?

Senator Lynch-Staunton: I move the adjournment of the debate, whether it is deemed right or not.

On motion of Senator Lynch-Staunton, debate adjourned.

THE ESTIMATES, 2003-04

SECOND INTERIM REPORT OF NATIONAL FINANCE COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the sixth report of the Standing Senate Committee on National Finance (Second Interim Report on the 2003-2004 Estimates) presented in the Senate on May 27, 2003.

Hon. Lowell Murray moved the adoption of the report.

He said: Honourable senators, this is the second interim report of our committee on the Main Estimates for the present fiscal year, 2003-04. Our first interim report was tabled in March, following upon meetings that we had with officials of the Treasury Board. That report paved the way for passage of the interim supply bill. This report follows upon a meeting that we had with Ms. Robillard, the President of the Treasury Board. After debate, and I trust adoption, it will pave the way for us to deal with the main appropriations bill that is supposed to be here on or about June 12.

I will not take very much of your time, honourable senators, but I will draw your attention to several items in our report, which is 19 paragraphs in length and generally speaks for itself.

[Translation]

Senator Bolduc will speak later in the debate on two issues that were raised during our committee's discussions. The first is infrastructure, bridges and highways that cross the Canada-U.S. border. There is no need to underscore the importance of this infrastructure to our economy, given the frequency and the extent of trade between the two countries.

The second issue deals with salaries for senior managers of government organizations and corporations. This issue was the subject of a lively exchange between Senator Bolduc and the President of the Treasury Board, Lucienne Robillard. Senator Bolduc expressed doubt about comparing managers' salaries in the public service and crown corporations, on the one hand, and those in the private sector, on the other hand. Senator Bolduc would like to have the opportunity to be heard on this matter later.

[English]

There are several matters I do want to draw to your attention. One concerns the famous Vote 5 — Treasury Board Vote 5, government contingencies. Honourable senators will recall that this matter has been a lively subject of debate and discussion at our committee, and in our reports, and in debates here in the chamber for some time. I simply wish to report that we are making some progress.

• (1540)

The question is whether Treasury Board Vote 5 is a real contingency fund to be accessed by ministers and officials in emergent situations, or is it some kind of slush fund to be accessed by ministers and officials as bureaucratic or political convenience dictates?

The truth probably lies somewhere in between, and we have been making diligent efforts to get at the truth. I am glad to say that the Treasury Board itself, officials and ministers, with a bit of prodding over a long period of time from our committee as well as from the Auditor General, acknowledge that some clarity is needed as to the wording of the vote itself, and as to the policy and guidelines under which ministers and officials are supposed to work when accessing the money in this vote.

We had a meeting with Treasury Board officials, which was, of necessity, in camera because we were discussing draft documents that were being circulated by the Treasury Board Secretariat to their counterparts throughout the bureaucracy. The committee hopes to have very soon another briefing session, one that would bring together Treasury Board officials with the Auditor General and her staff in an effort to move forward on this matter.

I do want to acknowledge that the minister herself seems to be a hands-on minister, as we have seen with Bill C-25, and her interest in the public service reform. She is also taking a direct interest in this vote, and in trying, as a matter of practice, I think it is fair to say, to tighten up its operation. However, there is nothing like dealing with the policy and guidelines themselves, as well as the wording of the vote in the Estimates, because, as we all know, ministers come and ministers go, but the bureaucracy goes on and on.

I have two other items I would like to draw to your attention. One is just en passant, the question of the Canadian Firearms Program. Honourable senators will recall that our protest here was not just at the way in which initial Estimates had been exceeded many times over by the government, in the operation of what I identified many reports ago as a fiasco, but also that the government, time and time again, was having recourse to the Supplementary Estimates to fund these overruns.

I must say that here again the minister seems determined to tighten things up. In practice, she has told us that while she could not guarantee that more money will not be sought in Supplementary Estimates, she has made it her business and has satisfied herself that the amount sought in the Main Estimates should be adequate. In fairness, she said, or the officials said, that there might have been some incidental cost to the transfer of the registry from the Ministry of Justice to the Solicitor General. We should take that into consideration when we are holding her to her statement before the committee.

Finally, there is the matter that is highlighted in paragraph 16 of our report, having to do with the process of moving funds from one account to the other. The occasion for the committee's inquiry into this matter was this brief saga of cabinet disunity in which, if I have it straight, Mr. Manley, the Finance Minister, reduced in his budget the amount of money that was to go to Telefilm Canada. There was a great storm about this from the cultural community. The Minister of Canadian Heritage, Ms. Copps, objected very publicly but then announced that not only was she able to recoup the \$25 or \$30 million that Mr. Manley had cut, but she was bringing another \$130 million to the fund, and that she was going to do it by transferring funds from Telefilm Canada, from the Canadian television funds contingency fund, and from various private sector contributions.

The question that arose, obviously, was how can she do this? Do the Estimates that we pass in principle, item by item, with their definition, mean anything, or is a minister free to scoop up \$100 million from this or that fund and simply transfer it at will to another fund? What is going on? The President of the Treasury Board and the officials were quite forthcoming. They simply said that she could not do it without parliamentary approval, and of

course she could not do it without going through the Treasury Board process itself. That was somewhat reassuring, but it also raised a question in my mind about how clearly these votes are written, and whether we insist in Parliament, particularly in the other place where they have the power of the purse, on knowing the parameters for the use of funds in a given vote.

I have always had a suspicion, and I think it is a well-founded suspicion on the basis of considerable experience with these matters, that some of these votes are looked upon as pools of funds to be accessed by ministers and bureaucrats at the convenience of the government. I think we have to look into this.

Another issue had to do — and I do not have the numbers in front of me at the moment — with a bid by Vancouver-Whistler for the Winter Olympics. It is being supported, of course, by the province, the federal government, the Prime Minister and others and certain parameters have been set out. One of the projects that they want to complete on the Lower Mainland, supposedly in connection with the Olympics, as a permanent improvement to infrastructure, is a very expensive rapid transit system. The question is, how much will the province put in, and can they persuade the federal government to exceed the ceiling it already set for itself. The Government of British Columbia, or one of its ministers said, "Look, here is something called, I think it is the Climate Change Fund under the Department of the Environment. What an opportunity to scoop up, say, \$100 million and throw it in as a federal contribution to the rapid transit project of the Lower Mainland."

To his great credit, the Minister of the Environment, Mr. David Anderson, said no. He said he was all in favour of rapid transit, but the connection between the climate change fund and building a rapid transit project is, to put it mildly, rather tenuous. However, the question that comes to mind, and I asked it of the minister and the officials at the committee, is, "What if Mr. Anderson were not so scrupulous?" What if he said, "I have all this money — it is a billion dollars, I think, in the Climate Change Fund. I am minister for British Columbia; I have the money and I want this done, so why not just scoop up the 100 million dollars?" My question to the minister and the officials was, "Could he have done it?" There was no answer.

I think we have to look at the wording and the parameters of some of the votes that we are being asked to pass. I think that members of the House of Commons, in particular, who have the power of the purse, ought to deal with this. We talk a lot about the need for fiscal prudence and restraint and about imposing fiscal prudence and restraint on bureaucrats. However, it occurs to me that perhaps fiscal restraint should start here in Parliament where the power of the purse exists. It can be addressed in various ways, including, perhaps, being a little more particular about the way in which votes are worded and about the amount of flexibility we give to ministers and bureaucrats to spend public funds.

With those few remarks, honourable senators, I commend this report to your favourable consideration.

On motion of Senator Bolduc, debate adjourned.

• (1550)

NATIONAL ANTHEM ACT

BILL TO AMEND—SECOND READING—
ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Poy, seconded by the Honourable Senator Banks, for the second reading of Bill S-3, to amend the National Anthem Act to include all Canadians.—(*Honourable Senator Cools*).

Hon. Vivienne Poy: Honourable senators, I have a question for Senator Cools. On Monday she said that she intended to speak to this matter this week. When does she intend to speak?

Hon. Anne C. Cools: Honourable senators, the time taken for this response should not be deducted from my speaking time. I was planning to speak today, but at this very moment I am due to speak to a group of University of Michigan students down the hall.

As well, honourable senators, with all due respect, I believe that I have been subjected to an act of provocation and it is my practice and style that, when I am provoked, I usually take a break and not speak for a day or two.

Senator Poy: Would Senator Cools give an indication of when she might speak?

Senator Cools: I just told the honourable senator that I will speak when I am calm and composed.

The Hon. the Speaker: Does this matter stand?

Senator Cools: If anyone wishes to speak, they are quite free to do so and I am quite willing to defer to them. I know that other senators wish to speak to this bill. However, I think, honourable senators, that it is wise and prudent to move to a state of calm after upset.

The Hon. the Speaker: I take it this matter is to stand, honourable senators.

Hon. Senators: Agreed.

Order stands.

CANADIAN INTERNATIONAL
DEVELOPMENT AGENCY BILL

SECOND READING—ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Bolduc, seconded by the Honourable Senator Cochrane, for the second reading of Bill S-17, respecting the Canadian International Development Agency, to provide in particular for its continuation, governance, administration and accountability.—(*Honourable Senator De Bané, P.C.*).

Hon. Douglas Roche: Honourable senators, I have a question of the Deputy Leader of the Government. I wish to speak to this order but I also wish to show respect to Senator De Bané, in whose name it stands. Senator Bolduc will not be around here for much longer, and I would like to see some action taken on this matter. Can the Deputy Leader indicate when I may speak to it?

[*Translation*]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I believe Senator De Bané will be able to give his speech quite soon; however, he has no objection to Senator Roche going before him.

[*English*]

The Hon. the Speaker: Senator Roche, do you wish to speak?

Senator Roche: I prefer to wait until Senator De Bané speaks.

Order stands.

PUBLIC SERVICE WHISTLE-BLOWING BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Kinsella, seconded by the Honourable Senator Murray, P.C., for the second reading of S-6, to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers.—(*Honourable Senator Kinsella*).

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I wish to continue my remarks on this bill at second reading, which I began some time ago. However, earlier today the Honourable Leader of the Government in the Senate, when speaking to Bill C-25, advised us of a provision in that bill dealing with whistle-blowing. Therefore, I am inclined to proceed no further with my remarks at second reading at this time so that, when I do so, I will know what is being developed in Bill C-25.

On motion of Senator Kinsella, debate adjourned.

BUSINESS OF THE SENATE

Hon. Marcel Prud'homme: Honourable senators, people keep asking when Senator Prud'homme will speak. I have told you that I studied the scroll of a period of two and a half years. Today, two important matters stand at day 14. On the same page of today's Order Paper, another matter stands at day 15.

I do not know why people are so persistent.

On page 20 of the scroll, two matters stand at day 14. On page 21, another matter stands at day 14.

The Hon. the Speaker: Senator Prud'homme, in order to ensure that I know what you are speaking to, have you risen on a point of order or are you putting a question on house business?

Senator Prud'homme: I am commenting in response to Senator Kinsella's remarks about postponing his remarks.

The Hon. the Speaker: Procedurally, we have disposed of that matter. Hopefully there will be an opportunity for you to make your point, if you wish.

COMPETITION ACT

BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

Hon. Michael Kirby moved second reading of Bill C-249, to amend the Competition Act.—(*Honourable Senator Robichaud, P.C.*).

He said: Honourable senators, I rise in support of second reading of Bill C-249, an act to amend the Competition Act. Bill C-249 is consistent with the objectives of the Competition Act, which are to promote and maintain fair competition so that Canadians may benefit from lower prices, product choice and quality services. The act enables Canadian business to capture new markets with innovative products and services. This bill seeks to amend section 96 of the existing Competition Act to ensure that consumers benefit from mergers that simultaneously create gains in efficiencies.

In general, honourable senators, under the act, mergers can be viewed positively as a core business strategy to increase competitiveness. The Competition Bureau reviews mergers that may substantially prevent or lessen competition. Once the Competition Bureau has completed its review, companies may choose to proceed with the merger, with the approval of the Competition Bureau, or they may choose to proceed despite the objections of the Competition Bureau. If this happens, the matter is then brought before the Competition Tribunal.

During any tribunal proceedings, merging parties may raise the so-called efficiency defence under section 96 of the Competition Act.

• (1600)

To successfully argue the efficiency defence, the parties must persuade the tribunal that the merger will generate efficiencies that are greater than and simultaneously offset the anticompetitive effects of the merger.

Most merger cases are resolved without the need for litigation. However, recently, the bureau challenged the merger between Superior Propane and ICG Propane before the tribunal saying that it would result in a substantial lessening of competition. That was the view of the Competition Bureau. The bureau held that view because the merger created monopolies or virtual monopolies in 16 local markets as well as a national market share of 70 per cent.

Nevertheless, the merger was allowed to proceed by the tribunal because the tribunal concluded that the efficiencies gained by the merging parties outweighed and offset the anti-competitive effects of the merger.

The outcome of the Superior Propane case is unacceptable from a policy perspective for two reasons. If you have monopolies and/or near monopolies in 16 local markets, it is clearly an anti-competitive merger. First, the ruling in the Superior Propane case establishes that an anti-competitive merger that generates sufficient efficiencies will be allowed, regardless of the harm to consumers in the form of higher prices. Second, the interpretation of section 96 by the tribunal in the propane case actually sanctions the creation of monopolies. This is clearly in contrast to the purpose and spirit of the Competition Act, which is to ensure that consumers benefit from competitive prices and product choice. The efficiency defence should not be used to obtain approval for a merger that would otherwise create substantial problems for consumers. The Competition Bureau substantially holds this view. The members of the bureau believe that the only feasible solution to the problems posed by the tribunal decision in the Superior Propane is legislative change.

Therefore, honourable senators, what this bill proposes to do is to revise the role of the efficiency defence in the Competition Act. Bill C-249 continues to consider economic efficiencies to be a factor along with all the other criteria outlined in section 93 of the act. However, this bill stops the current ability, as exemplified by the Superior Propane decision, of the efficiency defence trumping all other factors that impact on a merger. Instead of the current trade-off between efficiencies and anti-competitive effects, this bill ensures that efficiencies are considered as part of the overall assessment of the merger. The Competition Tribunal will still be able to review efficiencies, but only when there is a net benefit to the consumer through competitive prices or product choices.

This proposed change to the Competition Act parallels the structure with respect to competition policy that exists in many other industrialized countries, including the United States and the United Kingdom.

Honourable senators, although that is a private member's bill, it is important to note that it garnered significant multi-party support in the other place, passing by the wide margin of 175 to 29.

In conclusion, honourable senators, let me be clear that what this bill seeks to do is to strike a balance between protecting the interests of consumers and the importance of efficiencies in merger review. It will provide Canadians with merger review provisions that are more compatible with other jurisdictions, such as the United States and Europe, and simultaneously safeguard consumers from non-competitive price increases, loss of choice and quality that would result from monopolies of the kind created in the Superior Propane decision.

Hon. Colin Kenny: I have a question for the honourable senator if he would care to entertain it.

Senator Kirby: I would be happy to hear the question.

Senator Kenny: I understand the point that the honourable senator is making in regard to the efficiency defence, but it seems to me that propane is a fuel that is readily interchangeable with a variety of other fuels and competes in the marketplace with natural gas, gasoline and a variety of other products. Consequently, to my way of thinking, there is competition. While the competition may not be propane to propane, it may be propane to natural gas or propane to electricity or some other fuel, and that market discipline will be applied, notwithstanding. Would the honourable senator care to comment?

Senator Kirby: Honourable senators, I recognize that question with respect to this particular case. The dilemma, however, is that this decision, because of the way it was written, as opposed to focussing narrowly on propane, lays out a series of principles in which it appears that efficiencies can outweigh any other consideration, including the impact on consumers.

Had there been a single decision that did not set a framework for other potential decisions, it would be different from the way the decision was written. That is the essential problem.

On motion of Senator Stratton, for Senator Eyton, debate adjourned.

CANADIAN ASSOCIATION OF INSURANCE AND FINANCIAL ADVISORS CANADIAN ASSOCIATION OF FINANCIAL PLANNERS

PRIVATE BILL TO AMEND ACT OF INCORPORATION—SECOND READING— DEBATE ADJOURNED

Hon. Michael Kirby moved second reading of Bill S-21, to amalgamate the Canadian Association of Insurance and Financial Advisors and The Canadian Association of Financial Planners under the name The Financial Advisors Association of Canada.—(*Honourable Senator Kirby*).

He said: Honourable senators, I am pleased to sponsor Bill S-21 and move second reading. The purpose of this bill is to amalgamate the Canadian Association of Insurance and Financial Advisors and the Canadian Association of Insurance and Financial Advisors. The name of the amalgamated corporation would become the "Financial Advisors Association of Canada."

Founded in 1981, the Canadian Association of Financial Planners was the national association representing individual practitioners in the personal financial planning profession. With a membership of more than 2,700 individual financial planners across Canada, the association's goal was to raise the standards of financial planning in Canada and to increase consumer awareness of the value of financial planning services.

The Canadian Association of Insurance and Financial Advisors traces its origins to the founding of the Life Underwriters

Association of Canada in 1906, which was, at that time, an association of insurance agents only.

In 1998, the Underwriters Association changed its name to the Canadian Association of Insurance and Financial Advisors to reflect its transition from an association of life insurance agents to multi-licensed professional financial advisors. Approximately 70 per cent of its members are licensed to sell mutual funds and other securities as well as life insurance. A significant number of its members specialize in pension benefits.

In September 2002, members of the Association of Insurance and Financial Advisors and the Canadian Association of Financial Planners voted in favour of merging their two groups under the distinctive but product-neutral name of Advocis. Advocis is now the brand name of the Financial Advisors Association of Canada and is Canada's largest association of professional financial advisors, with members in 50 chapters across the country.

As its predecessor organizations have, Advocis continues to serve the Canadian financial advisors community and their clients. Advocis has 17,000 voluntary members who are financial advisors licensed to sell life and health insurance, mutual funds and securities.

The objectives of Advocis are to protect the interests of consumers by promoting the professionalism of its members, to uphold standards of market conduct through the enforcement of a code of professional conduct, to encourage basic and continuing education, to improve public awareness and understanding of personal financial planning, and to participate in the development of policy and regulation affecting financial advisors and their clients.

I will ask that this bill be referred to the Standing Senate Committee on Banking, Trade and Commerce once second reading debate has been completed.

In its recent meetings to examine the administration and operation of the Bankruptcy Insolvency Act and the Companies' Creditors Arrangement Act, the Senate Banking Committee heard from officials from Advocis who, at the time, briefly explained their efforts to bring this private member's bill forward.

• (1610)

Honourable senators, the Canadian Association of Financial Planners and the Canadian Association of Insurance and Financial Advisors have been working hard over the recent months to realize their goal to create the amalgamated corporation of the financial advisors association of Canada.

I hope that honourable senators will join me in supporting their efforts by giving considered and speedy passage to this piece of legislation.

Hon. John Lynch-Staunton (Leader of the Opposition): I would like to ask the honourable senator for some clarification, if he will allow a question.

I am not in favour of using Parliament to incorporate or even amalgamate private corporations. There are mechanisms now available through the Canada Corporations Act and elsewhere to do so. However, I notice that one of the "whereas" clauses claims that: "There is no existing law of general application that would enable the two corporations to amalgamate and continue as one corporation."

However, it seems to me that, since one of the organizations that wants to merge into the other is already incorporated under the Canada Corporations Act, the other organization, which was incorporated by Parliament, could have surrendered its charter and merged with the Canadian Association of Financial Planners through the existing mechanism available by law. That would save Parliament the time and expenditure of having to do it through a private bill.

How does one support the "whereas" clause saying that there is no ability to merge without an act of Parliament?

Senator Kirby: Honourable senators, that is an interesting point. I asked exactly the same question when the issue was put to me. Not being a lawyer, I can only repeat what the counsel for the association said, which was that given the fact that one organization had already been created by an act of the Parliament, it would be extremely difficult to do what the Leader of the Opposition has suggested. Frankly, I did not pursue the matter in any great depth.

It is a good question worthy of having the members of the Standing Senate Committee on Banking, Trade and Commerce raise with the representatives of the organization when they come before the committee. I was informed from a legal standpoint that this was the only way to successfully proceed.

Senator Lynch-Staunton: Honourable senators, I will reflect on this matter on the weekend because I am not convinced that if a party that is already incorporated under Parliament surrendered its charter, the amalgamation could not be done without Parliament's intervention. Unless there are others who want to intervene, I will move the adjournment of the debate.

On motion of Senator Lynch-Staunton, debate adjourned.

[Translation]

NATIONAL ACADIAN DAY BILL

REPORT ADOPTED—THIRD READING

The Senate proceeded to consideration of the Fourth Report of the Standing Senate Committee on Legal and Constitutional

Affairs (Bill S-5, respecting a National Acadian Day, with amendments) presented in the Senate on June 3, 2003.—(*Honourable Senator Furey*).

Hon. George J. Furey moved adoption of the report.

He said: Honourable senators, I would like to make a few comments, pursuant to rule 99 of the *Rules of the Senate*, in order to explain to you the reasons for the amendments proposed and what they seek to achieve.

[English]

The passage of this bill, honourable senators, would give parliamentary recognition to a National Acadian Day and send a message that it is a day for Canadians to reflect upon Canadian heritage.

While there was general support among the committee members for the intent of Bill S-5, some senators raised concerns about the use of the word "national" in the proposed federal legislation. Witnesses from the Department of Canadian Heritage expressed the view that Parliament, when passing a law that uses the word "nation" or "national," should do so in a way that includes all of the peoples of Canada.

Because Acadians have historically marked August 15 as a national celebration of the Feast of the Assumption of the Virgin Mary, some senators expressed the concern that the word "national," or "nationale" in French, might be interpreted as giving recognition to an Acadian nation.

To address this possible ambiguity, your committee recommends that the word "national" be defined in the bill as relating to all Canadians throughout Canada. In addition, your committee proposes that two paragraphs be added to the preamble of the bill to accomplish this same objective.

The first additional paragraph states that Acadians constituted the first permanent settlement from France in Canada and that they now reside in most of the provinces and territories of Canada. For example, the sponsor of the bill, Senator Comeau, pointed out to the committee that New Brunswick has over 300,000 Acadians, Nova Scotia has approximately 45,000 who still speak French and many more who no longer do, Prince Edward Island has approximately 5,000 and Quebec has over 1 million people of Acadian extraction.

The second paragraph added to the preamble clarifies that it is in the interests of all Canadians to share in and become acquainted with the rich history and culture of Acadians. Therefore, we expect that the amendments recommended by the committee will improve the bill by pre-empting any misinterpretation of the word "national."

The effect of this amendment is to create legislation that celebrates Acadian heritage without being seen to recognize nationhood for the Acadians. Senator Comeau, the sponsor of the bill, is in agreement with the amendments, and I urge all senators to support Bill S-5, with the amendments.

[Translation]

Hon. Rose-Marie Losier-Cool: Honourable senators, I would like to take a few moments to express to my support for the report by the Standing Committee on Legal and Constitutional Affairs on Bill S-5. I also approve of the amendments it proposes.

My thanks to Senator Comeau for introducing this bill, and my congratulations as well to the Committee on Legal and Constitutional Affairs for a job well done. I am pleased that among the witnesses it heard was our highly respected Acadian historian, Professor Maurice Basque of the Université de Moncton.

For the Acadians, this recognition by the Government of Canada by formally instituting August 15 as their holiday is a very significant event.

As I have said on numerous occasions here in this chamber, the Acadian people can boast of numerous accomplishments and numerous contributions to the Canadian and international francophonie. Acadians have made their mark in education, health and economics. Their culture has made its mark internationally as well. Today, in 2003, Acadians artists are box-office successes in Paris. I am referring to Natasha St-Pier, Roch Voisine, and Jean-François Breau, among others.

Our own colleague and famous actress Senator Viola Léger played to sold-out audiences at Montreal's Théâtre du Rideau Vert in December 2002 and January 2003.

• (1620)

Last week, the Université de Moncton awarded over 875 university diplomas to young francophone students from Atlantic Canada, elsewhere in Canada, and even Europe and Africa.

Assomption Limitée, of Moncton, is proud to be recognized as one of the ten best companies to work for in Canada.

Recently, a great Acadian, the former Speaker of the Senate and former Governor General of Canada, our colleague, the Honourable Roméo LeBlanc, was named Grand Officier of the Légion d'Honneur, France's greatest honour. The first Acadian to receive this award was also one of our colleagues, Senator Poirier, in 1902.

Next year will be a time for Acadia, Canada and France to renew their ties during celebrations of the 400th anniversary of the founding of Acadia on Sainte-Croix Island and later at Port-Royal. This was the first permanent French settlement in North America. Acadia revels in this distinction.

Those are a few reasons to celebrate this event. I invite all the honourable senators to join us on August 15 to experience our legendary and warm hospitality.

In the meantime, I ask the Senate to adopt this report and to vote in favour of Bill S-5. I hope that the Government of Canada will adopt it before August 15.

Hon. Gerald J. Comeau: Honourable senators, I would like to thank the members of the Standing Committee on Legal and Constitutional Affairs, as well as its chair, Senator Furey, for their professionalism during consideration of this bill. I can assure the Senate that this bill was considered in great detail.

Professor Maurice Basque, a historian from the Université de Moncton, and Professor Neil Boucher, a very well-known historian from the Université Sainte-Anne, appeared before the committee, as well as representatives of the Department of Canadian Heritage. All the witnesses made a valuable contribution.

The bill was the subject of very serious consideration. Senator Joyal, who moved several amendments, did so in a manner that strengthened and improved the bill. I want to very sincerely thank Senator Joyal for his amendments.

This bill shows the respect with which Acadians are regarded all across Canada. This is something parliamentarians are doing, not the government, and Parliament is expressing its wishes in this bill. It is very important to see it as Parliament's doing.

Next year, as has been mentioned, we will celebrate the 400th anniversary of the first permanent European settlement in Canada at Sainte-Croix and in Nova Scotia. It is a very special anniversary for Canada.

You are all invited; it is your celebration; it is a celebration not only for the Acadians but also for all Canadians. Come and visit the Acadian communities of Nova Scotia, where almost all the activities will take place next year. Come and see our historic sites and our villages. Come and meet the Acadians who will be coming from all over Canada, the United States and Europe. It is a big family and all Canadians are invited to join it. We will be there and we want you there, too.

To return to the remarks made by Senator Joyal, we are all Canadians and for that day, you will all be Acadians.

[English]

Hon. Serge Joyal: Honourable senators, it is important that our colleagues understand that, when Parliament establishes a national day, whatever that day, it is the highest recognition that we can give to a special historical fact. Our committee heard from experts and witnesses from the Department of Canadian Heritage, who explained to us the four approaches that are at our disposal, as Canadians, to celebrate a special occasion.

The first approach is a ministerial declaration. In that regard, they cited the example of the declaration that was adopted by the Minister Responsible for the Status of Women to recognize the tragedy at the École Polytechnique in Montreal that we all remember.

The second approach is a prime ministerial declaration, which gives a "higher level of recognition" to the circumstances, although I hesitate to use that phrase, because the Prime Minister is the Prime Minister.

The third approach is by an Order in Council, which is a proclamation of the Governor General. That is a higher proclamation. In fact, National Aboriginal Day, which will be celebrated in approximately two weeks, was initiated through a declaration of the Governor General.

The fourth approach, honourable senators is by an act of Parliament. Today we are giving the Acadians the highest recognition within our system for a special element of Canadian identity. I am not saying — and I acknowledge our colleague, Senator Chalifoux — that National Aboriginal Day is a less important day, absolutely not. The fact that the Governor General proclaimed National Aboriginal Day recognizes the unique relationship of the Aboriginal people with the Crown. That has been mentioned in this chamber before.

This bill is important because it will recognize the differences among French Canadians, not only the differences, but also the additional resources of the uniqueness of the Acadian people. In the other place there was much of discussion about a proposal to request an apology from Her Majesty for the deportation of 1755. I believe some of us have read the proceedings in the other place about the attempt to revisit a historical fact that was so important in shaping the identity and the development of the Acadian peoples in the 100 years that followed.

It is important, when we want to understand this, to try to put this inescapable damage done to the Acadian people in the context of the time. In the 17th and 18th centuries it was a common practice of kings, be it the King of France, England, Spain, Portugal or the Netherlands, to deport people when they seized a territory. In those days, persons were subjects of their king or queen. When a king or a queen took over a certain land, the inhabitants immediately became subjects of that king or queen. As such, they were under the total control of their new ruler. Even the King of France gave instructions to a famous Governor General of New France, Frontenac, to deport people.

• (1630)

I can quote for honourable senators the text of the instructions that were given to Frontenac in 1689 to deport the British subjects who were living at that time close to the Canadian border, which was New France. This was a way to deal with communities that were becoming subjects of the new kingdom.

When we try to understand the history of Acadia —

[Translation]

It is very important to understand history and the way it was written down at that time. Professor Basque and Professor Boucher, who were invited to appear by Senator Comeau, have given us a good discussion of the historical context in which the Acadians became a people and how they have grown since then. There is no doubt that the deportation in 1755 strengthened the Acadian identity.

[English]

Sometimes in history you need to be in an adversarial position to strengthen your identity. It is the same for Quebecers. In 1838, when Lord Durham published his report, he said that French

Canadians have neither culture nor history, it was like a major stroke of the whip on the identity of French Canadians, who, as a result, started writing their history and developing their culture. Sometimes history works backward. A decision that is supposed to erase a people can produce the contrary result.

From 1838 to 1859 many Quebec historians began writing their history and as many as 10 books were written. Historians, such as François-Xavier Garneau showed that French Canadians had a culture and history rooted deeply in the making of the fabric of Canada in those days. It was similar to 1755. The deportation of Acadians was probably the most important challenge of the Canadian identity to maintain and develop.

Instead of seeing it with what I call the “revisionist eyes of history,” we should try to understand what happened at that time and determine how we can act today to ensure we pay due respect and recognition to those historical elements.

[Translation]

That is why we wondered, after discussing it with our Acadian colleagues, if this legislation would meet our objectives. In other words, we wondered if the Acadian community would be seen throughout Canada as a significant element of Canadian identity. We came to the conclusion that this fundamental element should also be spelled out in legislation, hence the amendments put forward during consideration and debate in committee.

Honourable senators, I can only strongly encourage you to give your enthusiastic support to the committee's report. We have tried to the best of our knowledge to provide Acadians and Canadians with a bill through which they will be proud to celebrate on August 15.

Motion agreed to and report adopted.

The Hon. the Acting Speaker: Honourable senators, when shall this bill, as amended, be read the third time?

Hon. Senators: Now.

Senator Prud'homme: With leave?

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have no problem granting leave, but the Leader of the Government in the Senate would like to comment on this bill. Given that we were at report stage, we thought that third reading would be held on Monday or at the next sitting of the Senate. Consent was sought to proceed to third reading of this bill. I would like to ensure that the Leader of the Government in the Senate has the opportunity to comment on the bill now, so that we may dispose of it.

[English]

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I do not have any speaking notes. I want to talk a little bit this afternoon about a culture of which I only knew I was a part once I became an adult.

My grandparents many generations back came from the area around Arichat, Nova Scotia, which is a fishing village close to the community of Louisbourg. I have not done as Senator Milne has and traced back the family tree. My understanding, however, is that we may have been here as early as the late 1600s.

In 1905, when my grandmother decided that there was no future for her family in this Acadian village, she, who had given birth at that point to 17 children, 12 of whom were alive, decided that she would move the entire family to Boston. It was called the Boston States in those days. She put the family on a boat and took them to Boston.

Her husband thought she was mad, which I think is the correct term. He thought that she would go, come back and that would be the end of that, that it would be just a little vacation. However, she did not. She got off the boat in Boston with her 12 children and announced that since they now lived in an English-speaking country they were to speak only English. When her husband decided that she was not coming home, he went to Boston. My mother was the result of the reunification, if you will, of this family and became the eighteenth child.

She never heard her mother speak French, except when she prayed, for her mother knew her prayers in no other language. When my mother had diphtheria, her mother taught her many of the skills to do with her hands. For example, my mother could tat, crochet and knit. She could also do intricate embroidery patterns. There was in my house a needlepoint of a school with a flag, which was clearly not the Canadian flag or the British flag, but the flag of France. I asked about it as a child, as you do when you are aware of what flag should be over the schoolhouse. My mother would say, "That was done by your grandmother and that was the flag."

It was at a later point in her life that my mother began to ask, "What is my background? What is my cultural contribution here?" My father had grown up in an Irish tradition and, as far as he was concerned, his children were Irish. Thus, we were raised as Irish kids. We were Connollys. We were Irish. That was the way things were. My mother came home one day and put a piece of stained glass on a stand on the main table in the living room. I would welcome any of you to my office to see it. It is a stained glass replica of the fleur-de-lys. She put it there and said to her husband, "Your children are also French." That was when I realized that I had another cultural background to which I could relate. My mother's maiden name was Martel but the grandparents were named Leblanc and Boudreau. As a young university student, I decided to drive to the birthplaces of my maternal grandparents. I went looking for one community that was known to me as "Lordways." I followed the map and I arrived at the closest community and I asked where Lordways was. They said, "You are here." I said, "No, this community is called L'Ardoise." They replied, "No, it has been anglicized and it is pronounced Lordways."

(1640)

That, to me, epitomized the unfortunate part of the whole Acadian culture. Like every fifth grade student in Nova Scotia, I memorized stanzas and stanzas of "Evangeline," some of which I

can still spout. We knew about Evangeline; we knew about Gabriel; but we did not really know what they represented because their significance was not taught to us. We studied history and we knew about the Expulsion Act of 1755, but we did not truly understand what it meant to the families of the people who had been in that situation.

I stand here today feeling that I have been given another day to celebrate my roots, my heritage. I thank Senator Comeau for having given me that opportunity.

Motion agreed to and bill, as amended, read third time and passed.

STUDY ON POSSIBLE ADHERENCE TO AMERICAN CONVENTION ON HUMAN RIGHTS

REPORT OF HUMAN RIGHTS COMMITTEE— DEBATE ADJOURNED

The Senate proceeded to consideration of the fourth report of the Standing Senate Committee on Human Rights entitled: "Enhancing Canada's Role in the OAS: Canadian Adherence to the American Convention on Human Rights," tabled in the Senate on May 28, 2003.—(*Honourable Senator Maheu*).

Hon. Shirley Maheu: Honourable senators, I rise today to speak on the fourth report of the Standing Senate Committee on Human Rights entitled, "Enhancing Canada's role in the OAS: Canadian Adherence to the American Convention on Human Rights."

Canada has been a member of the Organization of American States since 1990. We have developed strong relationships with the Americas and we have been active in promoting human rights issues in the region. However, Canada has not yet ratified the principal treaty with respect to the protection of the human rights in the Americas, that is, the American Convention on Human Rights.

After over a year of study and public hearings, the committee has come to the conclusion that it is time for Canada to fully commit itself to the regional human rights system to which it already belongs by ratifying the American Convention on Human Rights.

The committee recommends that Canada take all necessary action to ratify the American Convention on Human Rights with a view to achieving this goal by July 18, 2008, the thirtieth anniversary of the convention.

Upon ratification of the convention, Canada should recognize the jurisdiction of the Inter-American Court of Human Rights on all matters relating to the interpretation or application of the convention.

The federal-provincial-territorial Continuing Committee of Officials on Human Rights should identify specific provisions of the convention that raise concerns and inform the public about them so as to foster debate and a search for solutions.

The Government of Canada should consider making the necessary interpretive declarations and reservations to address any concerns raised, in particular to maintain the status quo of abortion under Canadian law.

The committee also recommends that, as the Government of Canada takes appropriate steps towards the ratification of the convention, it should actively engage in promoting the convention.

[Translation]

At our public hearings, we realized there was little or no reason for Canada not to ratify the American convention. Government representatives and other witnesses shared some of their legitimate concerns about the compatibility of Canadian law with some of the provisions in the convention.

However, none of these problems is insurmountable. Legal experts, human rights advocacy groups and NGO representatives unanimously proposed means to overcome the obstacles uncovered by the Government of Canada.

The witnesses spoke out in favour of ratifying the convention with at least one reservation and a few declarations of interpretation.

[English]

During its first mandate, the committee visited the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights, both in San José, Costa Rica. Members met with the president and judges of the Inter-American Court of Human Rights and were able to witness, first-hand, how the court functions by attending hearings. Members also met with the president, several commissioners and the Inter-American Commission Special Rapporteur on Freedom of Expression.

The committee learned that the Inter-American system for the protection of human rights has evolved significantly since the entry into force of the American convention. The court now has an excellent record of compliance with its decisions.

Many of the concerns raised by government officials before the committee concerning the functioning of the commission have been and continue to be addressed by the commission. The issues raised before these two bodies range from acts of violence committed by the state, unknown in our democracy but existing elsewhere, to matters that are closer to Canadian concerns such as equality rights, rights of Aboriginal peoples, rights of refugees and migrant workers, rights of pensioners, and so on.

[Senator Maheu]

However, rather than influencing this evolution, Canada sits on the sidelines because it is not a full participant in the human rights system. Canada's leadership has been important to reinforce democracy in the Americas, and we believe it can be just as important to reinforce human rights in the hemisphere.

[Translation]

Honourable senators, I would like to point out some of the benefits of adherence to the convention. First, ratifying the convention would strengthen the inter-American system.

• (1650)

It would increase Canada's chances, for example, of appointing a judge to the Inter-American court and a commissioner to the commission.

It would also further strengthen Canada's credibility as a leader in the area of protecting human rights. For example, Canada's commitment could lead to the Caribbean and, possibly, the United States ratifying. They signed the convention but have yet to ratify it.

Several witnesses, both in Ottawa and in Costa Rica, said they were convinced that the ratification of the American convention by Canada would improve the protection of women's rights in the Americas, as the Inter-American court could be inspired by jurisprudence from the Supreme Court of Canada.

[English]

Finally, honourable senators, this study would not have been possible without the great contribution of some of our honourable colleagues. I think about the Honourable Senator Andreychuk, who started the study with great conviction. I would also thank the Honourable Senators Beaudoin, Cochrane, Fraser, Ferretti Barth, Jaffer, Kinsella, LaPierre, Poy, Rossiter, Taylor, and the Right Reverend Lois Wilson for their contribution and participation in this study. Thank you.

On motion of Senator Fraser, debate adjourned.

THE SENATE

WORLD HEALTH ORGANIZATION— MOTION REQUESTING GOVERNMENT SUPPORT FOR TAIWAN'S REQUEST FOR OBSERVER STATUS— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Atkins:

That the Senate call on the Government of Canada to support the request of the Government of Taiwan to obtain observer status at the World Health Organization (WHO).—(Honourable Senator Poy).

Hon. Vivienne Poy: Honourable senators, I am pleased to speak to the motion introduced by Senator Di Nino in support of Taiwan's request for observer status at the World Health Organization. As Senator Day stressed in his recent speech on this issue, the World Health Organization's mandate is the enjoyment of the highest attainable standard of health regardless of race, religion, political belief, and economic or social conditions. This preamble for the organization elevates health and human rights above politics.

As the recent outbreak of SARS has shown, the spread of disease is a global issue that requires international cooperation. Politics must take a back seat to health if we are to fight diseases such as SARS. As we all know, viruses and bacteria do not respect political affiliations or boundaries.

Canadians are integrally tied to Taiwan. Visa students, Taiwanese Canadians and international trade mean that we have daily interactions with the Taiwanese people. Approximately 150,000 Taiwanese visit Canada each year, in addition to the 150,000 Taiwanese immigrants and students living in Canada. Taiwan is also Canada's tenth largest trading partner and the world's sixteenth largest economy.

As Canadians concerned about our health and the health of people around the world, it is in our best interests as global citizens to support Taiwan's ready access to health information provided through the World Health Organization.

In recent months, Taiwan has had the third largest number of SARS cases. It also had a great deal of difficulty coping with the spread of the disease, and the number of cases actually rose at the end of May, just as the cases in other affected areas were beginning to wane.

Unlike the rest of the world, Taiwan had very little help coping with the disease. World Health Organization officials arrived too late and provided too little information. Taiwan was not privy to all the data, warnings and reports being issued from the World Health Organization. Is it appropriate to deprive an area of the world of available supports when lives are at stake? I think not.

The fact of Taiwan obtaining status as an observer at the World Health Organization would not affect the sovereignty issue that has been a subject of dispute with The People's Republic of China. Organizations such as Rotary International, the Red Cross, the Holy See of the Roman Catholic Church, the Order of Malta and the Palestinian Liberation Organization have been granted observer status. Taiwan, with its advanced medical technology and research capacity has a major contribution to make to world health. Taiwan needs to have the means of exchanging information with the world community, including reports on its own health situation.

The World Health Organization is the natural conduit for health data. There has been unprecedented world support for Taiwan's request. The United States, the European Parliament, Japan and other countries, as well as medical associations around the world have supported this request. In fact, the U.S. Congress

has repeatedly passed and presidents have repeatedly signed legislation directing the executive to undertake concerted efforts to bring about Taiwan's observer status at the WHO.

Yet despite the support from many powerful nations, the World Health Organization's annual assembly has repeatedly rejected Taiwan's request for observer status. Canada considers health care a fundamental human right, and so I believe that we have a role to play in ensuring that our government shows leadership on this issue.

Honourable senators, health crises are global crises. We cannot afford to be unprepared for the new diseases that are cropping up frequently. The only possible course of action is to work in cooperation with our neighbours, whoever they may be. The World Health Organization offers valuable experience and expertise in dealing with these issues. Politics cannot take precedence over health. Therefore, I would ask for your support in passing this motion.

Hon. Yves Morin: Would the Honourable Senator Poy take my question? Given that the SARS outbreak is still active in Taiwan, and given that the other place has already passed a similar motion, would Senator Poy think that there is a certain urgency in adopting this motion in the Senate?

Senator Poy: Absolutely. I think we should adopt the motion immediately.

Hon. Eymard G. Corbin: Honourable senators, I should like to make a modest contribution to the debate. This is a matter of great importance. My knowledge of diplomatic recognition is a fundamental matter of national policy. I hate to say this, but, inasmuch as what Senator Poy is seeking is highly recommendable, there is a diplomatic conundrum in respect of this issue because Taiwan has not been recognized by Canada and by a number of other countries.

It could well be that there is a way out of this difficulty in an attempt to achieve seek what Senator Poy seeking. Would it not be prudent, honourable senators, to refer the matter to committee for examination before proceeding any further? That is the observation I wish to make. Perhaps we could have an objective reaction from the other side.

Hon. Consiglio Di Nino: Honourable senators —

• (1700)

Hon. Marcel Prud'homme: On a point of order, the speaker at the moment is Senator Poy, and she is answering questions. Senator Corbin has made a comment. Has Senator Di Nino spoken? He cannot answer for Senator Poy. I would like to ask a question of Senator Poy, one question only.

Senator Poy: That is why I brought up the fact that there is no diplomatic recognition for the Rotary International and the Red Cross. The Holy See of the Roman Catholic Church and the Order of Malta and the Palestine Liberation Organization do not have diplomatic status, as far as I know. If they have observer status, why should Taiwan not have observer status?

Senator Di Nino: Honourable senators, would the Honourable Senator Corbin not agree that we are not approving a status of any kind for Taiwan? Would he not agree with me that the motion as worded is only a recommendation to the Government of Canada to support? It would then be their responsibility to decide whether this is an appropriate issue or not. It is not up to us. The wording of the motion is that we urge the Government of Canada to support the application, and then the government will have to make a decision. Would Senator Corbin not agree that that would cover his concern?

Senator Corbin: I think that explanation does address my concern, and I think that the answer is implicit in the question, which is all the more reason to have this motion sent to committee and to call the government as a witness to clear matters up. I am not opposed to the general intent of the motion. However, what is the purpose of stamping the motion today only to find out later that the government is not prepared to take any action for any reason?

Senator Prud'homme: I want to be clear. Is this not unusual? Senator Poy had the floor. She made a speech. Senator Corbin then asked a question. To the best of my recollection, this is the first time I have seen an honourable senator asking a question of another senator who asked a question of the speaker who had the floor. The Senate is the master of its own house, but this should not take place. If someone were to ask me a question after I had asked a question of Senator Poy, it would not make sense because I would not have had the floor.

I should like to address a plain question to Senator Poy, and then I will adjourn the debate until Monday for one reason, and Senator Corbin touched on it. There was a strong vote in the other chamber on a similar motion. I want to find out, between now and Monday, why the entire government, every minister, voted against it. To my mind, that means there must be something that we should know before we decide.

I know the Taiwanese people. I was the founder 25 years ago of the Canada-China Parliamentary Group. Our first chairman was Speaker Molgat. Now I have been completely forgotten by the new chair of Canada-China group, but I still know my politics about everything pertaining to China. It is very sensitive.

I would like to know why all the government ministers voted against the motion in the other place.

Senator Poy: I do not have that information, and I am afraid I cannot answer that question correctly. Perhaps Senator Di Nino would have the answer. This is a Senate motion, and we must deal with it in the Senate.

Senator Prud'homme: If on Monday I do not speak, we can let the motion go. I am making a commitment. However, I want to ensure why, in the other chamber, the government of the day decided to vote against the wish of the House. The House passed the motion, but the ministers seem to have been reluctant to join in. I will have an answer on Monday, and on Monday I will let the motion go forward. I will not push it further, and if the Senate is prepared to vote, that is fine.

On motion of Senator Prud'homme, debate adjourned.

[Translation]

AMERICA DAY IN CANADA

MOTION—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Kirby:

That the Senate urge the Government of Canada to establish September 11 of this and every year hereafter as a commemorative day throughout Canada, to be known as "America Day in Canada."—(Honourable Senator Corbin).

Hon. Eymard G. Corbin: Honourable senators, I would like to say a few words on this subject. However, I will have to continue my comments at a future sitting of the Senate. I would like to have been able to talk before today on Senator Grafstein's motion to establish September 11 of this year, and every year hereafter, as a commemorative day to be known as "America Day in Canada."

I cannot do so for the simple reason that I have asked the Library of Parliament to initiate in-depth research on the practice of designating days of commemoration in Parliament, be it by the government or any other way, and that document will not be available to me until next week. Therefore, in the meantime, any other honourable senator who may wish to speak on this topic is welcome to do so.

Honourable senators, we have just experienced a parliamentary or procedural incident with Senator Poy's motion, which was just debated. This chamber has the reputation of doing an excellent job of considering bills and motions in committee. I am increasingly opposed to the widespread practice of adopting motions on the floor of the Senate, without their having first been considered in detail by a committee of this institution.

• (1710)

It is fundamental to the practices and the business of the Senate. We have before us the excellent book put together under the direction of our colleague, the Honourable Senator Joyal, entitled *Protecting Canadian Democracy: The Senate You Never Knew*.

I think we must always take a moment to reflect before adopting hastily or under the influence of strong emotions any motion or proposal concerning the designation of an honorary title. This has happened in this place, in a matter minutes, without any prior consideration and under pressure. I disagree with this approach.

The purpose of the Senate is to review, if not take a first look at bills or motions. We must have an absolute right to review proposals referred to us by the other place. This is work better done in committee, if we want to do it right.

Without getting into the substance of Senator Grafstein's motion, I give notice that I will be proposing an amendment to Senator Grafstein's motion to have this motion referred to a committee and ask the committee to look into the common practice of designating "days of commemoration" in this country.

Today, the bill sponsored by Senator Comeau was passed. Last year, we did the same with Senator Losier-Cool's motion on the same basic question, that is recognition of a national day to celebrate the feast of the Acadians' patron saint on August 15. What did the Senate do? It could have given in to emotion, since everyone appeared to be agreeable, and could have moved to put the bill through all of its stages. But that is not the route we chose. We chose to refer the matter to the committee for in-depth consideration. The committee did an excellent job. Senator Joyal presented some amendments there, which serve to clarify the scope of the bill for the reader. Fortunately, we have passed the bill. I, too, wish to congratulate all those who were involved in this. The bill has been sent to the House of Commons. That is the fundamental job of the Senate of Canada.

During debate on the motion with respect to September 11, we heard some very strong emotions being expressed by some of our colleagues in connection with Senator Grafstein's motion. I can understand that, but the clock has continued ticking. Weeks and months have gone by, and more and more Canadians are now questioning our relations with the United States, the way they sometimes speak about Canada, the way they interpret trade agreements, and statements made by official representatives of the U.S. government in this country, not in Parliament but in such places as Toronto. Our American friends sometimes have some irritating things to say about this country. They certainly have a great need to learn more about what Canadians are really like deep down. Let there be no more spreading of false information about this country via the media, CNN, Fox News and many others.

I would like it to be known right from the start that I personally am not wildly in favour of what Senator Grafstein is proposing, but I will go beyond that. I want to see us stop acting on the emotion of the moment to adopt initiatives that have not undergone serious and in-depth consideration in committee. That is what the purpose of my amendment will be, and I will speak further on this at a subsequent sitting of Senate.

On motion of Senator Corbin, debate adjourned.

FOREIGN POLICY ON MIDDLE EAST

INQUIRY—ORDER STANDS

On the Order:

Resuming debate on the inquiry of the Honourable Senator Prud'homme, P.C., calling the attention of the Senate to Canadian foreign policy on the Middle East.—(*Honourable Senator Prud'homme, P.C.*).

Hon. Marcel Prud'homme: Honourable senators, my speech on the Middle East was ready.

[English]

There is a great development taking place with the extraordinary actions of President Bush, who I respect

immensely. There is an immense development taking place that could affect what I may have to say. I recognize that President Bush is going through great difficulty with his proposal for peace in the Middle East, a very sensitive part of the world, so I prefer not to speak today.

Order stands.

ILLEGAL DRUGS

REPORT OF SPECIAL COMMITTEE—INQUIRY— DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Nolin calling the attention of the Senate to the findings contained in the Report of the Special Committee of the Senate on Illegal Drugs entitled "Cannabis: Our Position for a Canadian Public Policy," tabled with the Clerk of the Senate in the First Session of the Thirty-seventh Parliament, on September 3, 2002.—(*Honourable Senator Stratton*).

Hon. Tommy Banks: Honourable senators, I rise today to continue the debate on the inquiry of the Honourable Senator Nolin calling attention to the report tabled by the Special Committee on Illegal Drugs, but I understand that we would rather do this at another time.

An Hon. Senator: Monday.

Senator Banks: Did you notice how remarkably perceptive I have become in just three years?

Honourable senators, I would crave your allowing me to adjourn the debate for the remainder of my time until the next setting of the Senate.

On motion of Senator Banks, debate adjourned.

[Translation]

ROLE OF CULTURE IN CANADA

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Gauthier calling the attention of the Senate to the important role of culture in Canada and the image that we project abroad.—(*Honourable Senator Lapointe*).

Hon. Michel Biron: Honourable senators, Senator Poulin would have liked to speak to Inquiry No. 14, standing in the name of Senator Gauthier, on the important role of culture in Canada and the image that we project abroad. Since she is not yet prepared to speak, I would like to adjourn the debate on her behalf. She will speak at a later date.

On motion of Senator Biron, for Senator Poulin, debate adjourned.

FOREIGN AFFAIRS

MOTION TO REFER 2002 BERLIN RESOLUTION OF
ORGANIZATION FOR SECURITY AND CO-OPERATION
IN EUROPE PARLIAMENTARY ASSEMBLY
TO COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion, as modified, of the Honourable Senator Grafstein, seconded by the Honourable Senator Joyal, P.C.,

That the following resolution, encapsulating the 2002 Berlin OSCE (PA) Resolution, be referred to the Standing Senate Committee on Human Rights for consideration and report before June 30, 2003:

WHEREAS Canada is a founding member State of the Organization for Security and Economic Co-operation in Europe (OSCE) and the 1975 Helsinki Accords;

WHEREAS all the participating member States to the Helsinki Accords affirmed respect for the right of persons belonging to national minorities to equality before the law and the full opportunity for the enjoyment of human rights and fundamental freedoms and further that the participating member States recognized that such respect was an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and co-operation between themselves and among all member States;

WHEREAS the OSCE condemned anti-Semitism in the 1990 Copenhagen Concluding Document and undertook to take effective measures to protect individuals from anti-Semitic violence;

WHEREAS the 1996 Lisbon Concluding Document of the OSCE called for improved implementation of all commitments in the human dimension, in particular with respect to human rights and fundamental freedoms and urged participating member States to address the acute problem of anti-Semitism;

WHEREAS the 1999 Charter for European Security committed Canada and other participating members States to counter violations of human rights and fundamental freedoms, including freedom of thought, conscience, religion or belief and manifestations of intolerance, aggressive nationalism, racism, chauvinism, xenophobia and anti-Semitism;

WHEREAS on July 8, 2002, at its Parliamentary Assembly held at the Reichstag in Berlin, Germany, the OSCE passed a unanimous resolution, as appended, condemning the current anti-Semitic violence throughout the OSCE space;

WHEREAS the 2002 Berlin Resolution urged all member States to make public statements recognizing violence against Jews and Jewish cultural properties as anti-Semitic and to issue strong, public declarations condemning the depredations;

WHEREAS the 2002 Berlin Resolution called on all participating member States to combat anti-Semitism by ensuring aggressive law enforcement by local and national authorities;

WHEREAS the 2002 Berlin Resolution urged participating members States to bolster the importance of combating anti-Semitism by exploring effective measures to prevent anti-Semitism and by ensuring that laws, regulations, practices and policies conform with relevant OSCE commitments on anti-Semitism;

WHEREAS the 2002 Berlin Resolution also encouraged all delegates to the Parliamentary Assembly to vocally and unconditionally condemn manifestations of anti-Semitic violence in their respective countries;

WHEREAS the alarming rise in anti-Semitic incidents and violence has been documented in Canada, as well as Europe and worldwide.

Appendix

RESOLUTION ON
ANTI-SEMITIC VIOLENCE IN THE OSCE REGION

Berlin, 6 - 10 July 2002

1. Recalling that the OSCE was among those organizations which publicly achieved international condemnation of anti-Semitism through the crafting of the 1990 Copenhagen Concluding Document;
2. Noting that all participating States, as stated in the Copenhagen Concluding Document, commit to "unequivocally condemn" anti-Semitism and take effective measures to protect individuals from anti-Semitic violence;
3. Remembering the 1996 Lisbon Concluding Document, which highlights the OSCE's "comprehensive approach" to security, calls for "improvement in the implementation of all commitments in the human dimension, in particular with respect to human rights and fundamental freedoms," and urges participating States to address "acute problems," such as anti-Semitism;
4. Reaffirming the 1999 Charter for European Security, committing participating States to "counter such threats to security as violations of human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief and manifestations of intolerance, aggressive nationalism, racism, chauvinism, xenophobia and anti-Semitism";

5. Recognizing that the scourge of anti-Semitism is not unique to any one country, and calls for steadfast perseverance by all participating States;

The OSCE Parliamentary Assembly:

6. Unequivocally condemns the alarming escalation of anti-Semitic violence throughout the OSCE region;
7. Voices deep concern over the recent escalation in anti-Semitic violence, as individuals of the Judaic faith and Jewish cultural properties have suffered attacks in many OSCE participating States;
8. Urges those States which undertake to return confiscated properties to rightful owners, or to provide alternative compensation to such owners, to ensure that their property restitution and compensation programmes are implemented in a non-discriminatory manner and according to the rule of law;
9. Recognizes the commendable efforts of many post-communist States to redress injustices inflicted by previous regimes based on religious heritage, considering that the interests of justice dictate that more work remains to be done in this regard, particularly with regard to individual and community property restitution compensation;
10. Recognizes the danger of anti-Semitic violence to European security, especially in light of the trend of increasing violence and attacks regions wide;
11. Declares that violence against Jews and other manifestations of intolerance will never be justified by international developments or political issues, and that it obstructs democracy, pluralism, and peace;
12. Urges all States to make public statements recognizing violence against Jews and Jewish cultural properties as anti-Semitic, as well as to issue strong, public declarations condemning the depredations;
13. Calls upon participating States to ensure aggressive law enforcement by local and national authorities, including thorough investigation of anti-Semitic criminal acts, apprehension of perpetrators, initiation of appropriate criminal prosecutions and judicial proceedings;
14. Urges participating States to bolster the importance of combating anti-Semitism by holding a follow-up seminar or human dimension meeting that explores effective measures to prevent anti-Semitism, and to ensure that their laws, regulations, practices and policies conform with relevant OSCE commitments on anti-Semitism; and
15. Encourages all delegates to the Parliamentary Assembly to vocally and unconditionally condemn manifestations of anti-Semitic violence in their respective countries and at all regional and international forums.—(*Honourable Senator Prud'homme, P.C.*)

Hon. Fernand Robichaud (Deputy Leader of the Government): Senator Grafstein asked me to move to adjourn debate so that he can exercise his right to reply to this motion. He has been detained. He had to be present to discuss the SARS crisis in Toronto. It is a good reason, and that is why I agreed to move adjournment in his name.

• (1720)

Hon. Marcel Prud'homme: Honourable senators, the motion stands in my name and can remain so. I am pleased to receive your representations. Nonetheless, Senator Grafstein would like to hear my statements before presenting his final inquiry. My comments are so extensive, unfortunately, that I will not have the opportunity to have them heard today.

[*English*]

I get the message that enough is enough for today. Thank you for having put back that item back to zero, but stand by because you will hear much that you have not heard before.

The Hon. the Speaker: It is moved by Senator Robichaud, seconded by Senator Prud'homme, that further debate be adjourned to the next sitting of the Senate and that this matter stand in the name of Senator Grafstein.

[*Translation*]

Senator Robichaud: The Honourable Senator Prud'homme has asked for a little more time and to present his comments at the next sitting of the Senate since, if the Honourable Senator Grafstein were to speak, this motion would be considered debated. I have no objection to Senator Prud'homme asking that the order stand until the next sitting.

Senator Prud'homme: Personally, I would prefer to conclude today.

On motion of Senator Prud'homme, debate adjourned.

[*English*]

NATIONAL SECURITY AND DEFENCE

MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE WITHDRAWN

Hon. Colin Kenny, pursuant to notice of May 28, 2003, moved:

That the Standing Senate Committee on National Security and Defence have power to sit on Monday, June 9, 2003, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

He said: Honourable senators, with leave of the Senate, I ask that this motion be withdrawn.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion withdrawn.

MOTION TO AUTHORIZE COMMITTEE
TO MEET DURING ADJOURNMENT
OF THE SENATE—DEBATE ADJOURNED

Hon. Colin Kenny, pursuant to notice of May 28, 2003, moved:

That the Standing Senate Committee on National Security and Defence be empowered, in accordance with rule 95(3)(a), to sit during the adjournment, even though the Senate may then be adjourned for a period exceeding one week.

He said: Honourable senators, I am advised that there is confusion in the minds of some people about this motion. Therefore, I ask leave, pursuant to rule 30, that the motion be modified by adding the words "traditional summer" before the word "adjournment" and by adding the words "until such time as the Senate returns" after the word "week" so that it would read:

That the Standing Senate Committee on National Security and Defence be empowered, in accordance with rule 95(3)(a), to sit during the traditional summer adjournment even though the Senate may be adjourned for a period exceeding one week until such time as the Senate returns.

The Hon. the Speaker: Is leave granted, honourable senators, for the modification of the motion? Senator Kenny has quoted the appropriate rule.

Senator Kenny: Honourable senators, the purpose of the motion is to allow the Standing Senate Committee on National Security and Defence to meet during the summer and to continue its study of coastal defence and of first responders. The meetings would be subject to all members of the committee finding a convenient time to return to Ottawa to meet. The committee has indicated to me an interest in having such meetings, and the clerk is working on finding appropriate times to hold them.

The Hon. the Speaker: I am advised by the Table that we have not had a motion to adopt this motion.

Senator Kenny: I so move.

The Hon. the Speaker: It is moved by the Honourable Senator Kenny, seconded by the Honourable Senator Losier-Cool:

That the Standing Senate Committee on National Security and Defence be empowered, in accordance with rule 95(3)(a), to sit during the traditional summer adjournment, even though the Senate may then be adjourned for a period exceeding one week until such time as the Senate returns.

Hon. Consiglio Di Nino: Honourable senators, I do not know if I heard the honourable senator correctly. I believe he said something that this would be subject to all members of the committee being available to come to Ottawa. Did I hear him correctly?

Senator Kenny: Yes, that is correct. Over the past two summers, we found times when everyone wanted to come back and do the work, so we are trying to do that now.

Senator Di Nino: Will you require only a quorum of the committee or all members of the committee? If one member of the committee cannot come, will you still convene a meeting?

I am not trying to create a problem; I am only trying to understand your comment.

Senator Kenny: In the past, I believe everyone has been able to attend. However, we do have meetings from time to time when one or two people cannot attend. I cannot give you a clear answer on that because we are still canvassing the availability of members of the committee. If we can meet on days when everyone can be here, that would be great. However, we are asking for leave to proceed, obviously with a quorum, even if some members cannot attend.

Hon. John Lynch-Staunton (Leader of the Opposition): I interpret this amendment to mean any summer, not only this summer. What is "the summer adjournment"? Is it until we meet in September? What if, for some reason, we do not meet in September?

I will ask to adjourn the debate on this in my name because our whip is not here and I want to consult him and our members to ensure that they support this motion. I am sure the honourable senator has spoken with them, but I have not had a chance to speak to our whip about this.

If the honourable senator would answer my question about the interpretation of the time frame of summer adjournment, I will then adjourn the debate and the matter can be resolved on Monday.

Senator Kenny: The modification was intended to clarify what I thought was perfectly clear in the first place. I do not know exactly when we will be coming back, but the intention, presumably, is to resume in September. If we do not resume this September, it will be because of a prorogation or a dissolution and the committee will have no authority to meet. My problem is that I do not know when the Senate will be coming back.

Senator Lynch-Staunton: My concern is that this applies to any summer, as long as we are in the same session of Parliament.

Senator Kenny: I have not said that, with due respect. If we do not resume at the end of the summer, I would assume that the committee no longer exists.

Senator Lynch-Staunton: That is an assumption that is not in the motion. We can only vote on words, not on assumptions.

Senator Kenny: I very much want to satisfy Senator Lynch-Staunton's concern. If the honourable senator would assist me with more precise wording, I will endeavour to modify the motion. Would "the summer of 2003" be appropriate?

(1730)

Senator Lynch-Staunton: It would be clearer, yes.

Senator Kenny: With leave of the Senate, pursuant to rule 30, I would ask to further modify the motion by adding the year 2003."

The Hon. the Speaker: Senator Kenny wishes to further modify his motion to read:

That the Standing Senate Committee on National Security and Defence be empowered, in accordance with rule 95(3)(a), to sit during the summer adjournment of 2003.

[Translation]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I think we could simplify matters considerably if, at the end of the motion amended by the Honourable Senator Kenny, we could say:

[English]

...until such time as the Senate returns on September 15, 2003" —

which is according to the calendar we have before us.

Senator Kenny: My understanding is that the Deputy Leader of the Government has suggested that we name the date that is in the pro forma calendar, which is September 16.

The modified motion, therefore, would read:

That the Standing Senate Committee on National Security and Defence be empowered, in accordance with rule 95(3)(a), to sit during the summer adjournment, even though the Senate may then be adjourned for a period exceeding one week, until such time as the Senate returns in September of 2003.

The Hon. the Speaker: Honourable senators, Senator Kenny seeks leave to modify his motion to read as follows:

That the Standing Senate Committee on National Security and Defence be empowered, in accordance with rule 95(3)(a), to sit during the summer adjournment, even though the Senate may then be adjourned for a period exceeding one week, until such time as the Senate returns in September of 2003.

Honourable senators, Is leave granted to allow Senator Kenny to modify the motion as requested?

Hon. Senators: Agreed.

The Hon. the Speaker: Leave being granted, the motion is so modified.

Senator Lynch-Staunton: I wish to adjourn the debate until Monday in order to ensure that the dates the committee has in mind are satisfactory to our members on that committee, particularly since we have at least two caucus events this summer, one in September and perhaps one earlier. I want to ensure that the dates do not conflict, and I think we can deal with that matter by Monday evening.

On motion of Senator Lynch-Staunton, debate adjourned.

MOTION TO AUTHORIZE COMMITTEE
TO DEPOSIT INTERIM REPORTS WITH CLERK
OF THE SENATE—DEBATE ADJOURNED

Hon. Colin Kenny, pursuant to notice of May 28, 2003, moved:

That the Standing Senate Committee on National Security and Defence be permitted, notwithstanding usual practices, to deposit such interim reports that it may have ready during the adjournment, and that the reports be deemed to have been tabled in the chamber.

He said: Honourable senators, I would like to take the occasion to speak to this matter. I know that there are differing views in the chamber on it and I would like to put mine on the record so that senators are aware of my point of view.

I understand that the Senate is its own master, that committees exist at the pleasure of the Senate, that committees may only work when the Senate decides they may, and they may only function in a manner of which the Senate approves.

Having said that, I wish to observe that during my 30 years on the Hill the Senate has continually struggled to protect its reputation and, in fact, its very existence. About five years ago, we hit a low with the Andy Thompson affair and the Senate was in disrepute. Only as a result of extraordinary efforts by people who I see in this room did we start digging ourselves out of the hole in which we found ourselves as a result of the Thompson affair.

I would argue that the change in the public perception of the Senate has come about as a result of individual initiatives by senators in this room and as a result of the work of committees and committee reports that have met the needs of the Canadian people, have been of interest to the Canadian people and have caused Canadians generally to hold this house in higher esteem.

One of the keys to all these initiatives and one of the keys to a successful committee report is to gain a certain level of publicity in the media and public debate in order that the Senate's work becomes part of the national debate. It is a real struggle. We have all seen terrific reports of this institution that have not become part of the national debate because we were not able to generate enough publicity initially in order that people debated them and that we were joined with the public and the other place in a matter of public policy.

It is my theory that we must attain a certain level of public attention before we become relevant, that the ideas by themselves do not accomplish this, that we must work to get that public attention. If that theory is accepted, then it behooves us to be very nimble in finding ways to fill that gap.

If we look around us today, there is no one from the press here covering the Senate, as is the case on most days. I do not even have to look at the press gallery to know that there is no one there. I also know that on a normal day, unless something extraordinary happens, such as someone throwing an inkwell across the floor, it is very difficult for us to crack the national media.

We are all here because we have the objective of changing public policy, hopefully for the better. I would argue that the only way we have a chance of changing public policy is by catching the public's attention, which is a very difficult exercise. This is a very competitive town. The media conducts an auction every morning to determine what stories they will cover. If you are competing with two or three other stories emanating from the other place, you will simply not make the media list for coverage that day. If you do not get coverage on the day that your report is being dealt with, you do not have a chance of being part of the debate and your colleagues will say, "Your work was terrific, but it is too bad no one noticed it."

• (1740)

I want honourable senators to think about the situation when we are dealing with poor coverage or with delaying a report until the end of a summer. The Senate can make just about any decision on this. The first argument for tabling a report in the chamber is that it is traditionally done that way. The second argument is that no senator likes to be blindsided by a report that has not been tabled or presented. Senators want to know about them. The third argument is that senators want to have a opportunity to debate reports when they are tabled or presented.

In regard to the traditional argument, I would argue that we should go with the times and, if you buy my argument that we need a certain level of publicity, it is time for the Senate to think about what is in our best interests. Should the public know that the Senate and its committees can go from July 1 through to September without any work? Is that really what senators want? Should we not be seen on screens or come to the attention of the public at all? Alternatively, is the preference that, if we have good ideas or prepare a good report during the course of the summer people will be able to see that and note that the Senate is doing some good work? I am obviously in the camp that favours the alternative way of proceeding.

The second problem about senators being blindsided is one that we can resolve. We have resolved it in the past by ensuring that, before any press conference, senators were e-mailed copies of the report so that it was available to them; that hard copies of the report were delivered to their office if their staff wanted to go through it; and that senators would be invited to the committee while it was working on the final draft so that they could participate in the writing of the report if they so chose. The blindsiding problem can be dealt with easily.

[Senator Kenny]

I have done some homework on the question of debating reports and what I have found has been quite interesting. Senate committee chairmen have tabled or presented to the Senate 128 special study reports between 1990 and today. Of those 128 reports, 66 or 52 per cent were debated; 62 or 48 per cent were not debated. Of the 66 reports that were debated, 51 were tabled or presented in the chamber. On average, it took 26 calendar days before the debate on the report commenced. As well, 15 reports were tabled with the Clerk of the Senate and, on average, it took 21 days after the Senate resumed for the debates on those reports to start.

Honourable senators, in fairness, these are averages, and people can make any argument they want with numbers, but I would draw to your attention that roughly 50 per cent of the reports are debated. Those that are tabled with the Clerk of the Senate are debated about five days sooner, on average, than those that are tabled or presented in the chamber.

Honourable senators who are concerned with debating reports in the Senate need to ask: Is the Senate better served if we have a public debate going on and people are aware that the Senate is working throughout the summer, or is it better to complete the report and wait until the summer recess is over to table the report, running the risk of a leak? Should we wait for 60 days or however long it takes to table it in the chamber?

I ask honourable senators, when they consider how to deal with this motion, to look at the broader question of what they think is in the best interests of this institution in 2003. Will we be better served if, on a regular basis, the public receives reports from the Senate and sees us working over the summer period and asking for permission to table a report with the Clerk of the Senate? That would not obviate the need for debate. The debate would still go on, as I have shown here. Perhaps the debate would commence sooner.

On motion of Senator Robichaud, debate adjourned.

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF DOMESTIC AND INTERNATIONAL FINANCIAL SYSTEM

Hon. Wilfred P. Moore, for Senator Kolber pursuant to notice of June 3, 2003, moved:

That the date for the presentation by the Standing Senate Committee on Banking, Trade and Commerce of the final report on its study on the present state of the domestic and international financial system, which was authorized by the Senate on October 23, 2002, be extended to March 31, 2004.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

[Translation]

OFFICIAL LANGUAGES

THIRD REPORT OF COMMITTEE ADOPTED

Hon. Rose-Marie Losier-Cool, pursuant to notice of June 3, 2003, moved:

That, in accordance with paragraph 58(1)(g) of the Rules, the Third Report of the Standing Senate Committee on Official Languages, tabled in the Senate this past May 28, be adopted.

She said: Honourable senators, I would like to briefly outline the content of this third report, tabled in the Senate on May 28, 2003. This report arises out of the order of reference of the Senate of February 5, 2003, concerning a report entitled "Environmental Scan: Access to Justice in Both Official Languages."

Justice Canada revised this report in 2002, then, in February 2003, we received the order of reference of the Senate. This report is designed to provide an update on recent developments in law as they relate to language.

The authors of the "Environmental Scan" found general dissatisfaction with legal services in French in the nine provinces and three territories where French is the minority language.

The three areas under federal jurisdiction identified as unsatisfactory are criminal law, bankruptcy law, and divorce and support law.

[English]

The former Standing Joint Committee on Official Languages studied the report entitled "Environmental Scan." In November 2002, the Government of Canada officially responded to the report. In February 2003, the Senate committee was asked to study the response of the Government of Canada.

[Translation]

In the summer of 2002, Justice Canada formed a Federal-Provincial-Territorial Working Group co-chaired by Justice Canada. At the time of its creation, this group, that is referred to as FPT, brought together representatives from Justice Canada, Alberta, British Columbia, Manitoba, Ontario, New Brunswick and the Yukon. Since that time, representatives from Nunavut and Saskatchewan have joined FPT.

The group's mandate of unlimited duration is to bring the government and communities closer together in partnership. One of FPT's main priorities is to push for the full implementation of linguistic obligations set out in the Criminal Code.

The federal Action Plan for official languages, submitted on March 12, 2003, Minister Dion's plan, earmarks \$45.5 million over five years. A sum of \$18.5 million will allow Justice Canada to fund language training programs in legal terminology. However, funding of the plan is not the only solution.

• (1750)

The work of the FPT working group is vital, and the Standing Committee on Official Languages recommends that the federal government encourage all provinces and territories not yet members of the working group to join.

There are concerns about certain specific aspects of access to justice in both official languages. One of the first is that means must be found to encourage bilingual law graduates to return to their home regions to practise law.

Bilingualism should be one of the selection criteria in assessing candidates for new appointments to the bench. Surprisingly, only between 40 and 60 per cent of judges inform parties to proceedings, when they are not represented by a lawyer, of their right to be heard in the official language of their choice.

Enforcement of the provisions of section 530 of the Criminal Code must be ensured. Two pilot projects have been set up in recent years to improve access to judicial and legal services in both official languages.

[English]

The single window model in Manitoba and the launch of a travelling provincial court staffed by bilingual personnel in Saskatchewan are examples of those two pilot projects. The committee wants a commitment from the government to support those two pilot projects and to investigate the possibility of introducing similar models in other provinces and territories.

It is also essential that all legal documentation, such as charges, be accessible in both official languages in those regions of the country where it is not the case.

[Translation]

The seven recommendations contained in the report reflect the concerns that I just identified and the members of the committee included them as recommendations. I would therefore ask, honourable senators, that this report be adopted.

[English]

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

THE SENATE

MOTION TO CONGRATULATE LUNENBURG,
NOVA SCOTIA ON TWO-HUNDRED FIFTIETH
ANNIVERSARY ADOPTED

Hon. Wilfred P. Moore, pursuant to notice of June 3, 2003, moved:

That the Senate of Canada extend its congratulations and best wishes to the Town of Lunenburg, Nova Scotia, its Mayor, Councillors and Townsfolk upon the 250th anniversary of its founding, which is to be celebrated on Saturday, the 7th day of June, 2003.

He said: Honourable senators, the first Protestant settlers arrived in Lunenburg, Nova Scotia, on June 7, 1753. One of those settlers was Michael Hirtle, a miller and sawmiller of 62 years of age from Hochdorf, near Goppingen in the Duchy of Wurttemberg, Germany. He and his family sailed into Lunenburg that day from Halifax, having arrived in the capital in 1751 on board the ship *Pearl* of Rotterdam. Michael Hirtle was my maternal grandfather six times removed. With his blood coursing through my veins, it is with much personal pride that I speak in this chamber today.

I have my Senate office in Lunenburg. I never tire of the unique flavour and architectural character of the old town and of our working waterfront. The people of this beautiful town, which predates Confederation by over a century, have good reason to be proud of the two-hundred fiftieth anniversary of its founding, which is to be celebrated on Saturday next.

In 250 years, our ancestors and their descendants, and subsequent settlers, have created a strong and vibrant community. Throughout the centuries of change, the old world charm of times gone by has been successfully preserved. Indeed, to walk the streets of Old Town Lunenburg is like taking a walk back in time.

In consideration of all that, in addition to being the home port of the legendary fishing and racing schooner *Bluenose*, and her replica *Bluenose II*, it is no wonder that this proud town's heritage has been recognized both nationally and internationally. Old Town Lunenburg was designated a national historic district by the Government of Canada in 1992. In December 1995, Old Town Lunenburg was designated a world heritage site by the United Nations, a distinction that it enjoys with only one other urban locale in North America, Old Quebec City.

I look forward to participating in Saturday's re-enactment of that first landing of settlers. It is most fitting that Canada Post has chosen to honour Lunenburg with a commemorative envelope on that historic occasion. I shall be pleased and honoured to represent Canada Post at the unveiling of this commemorative envelope and to bring greetings to those assembled from the Government of Canada and from this august chamber.

In closing, I wish the Town of Lunenburg and its people a two-hundred and fiftieth birthday filled with happiness and fellowship, and I hope that they continue to enjoy and share their well-founded heritage for centuries to come.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I wish to associate all my colleagues in extending congratulations and best wishes as Lunenburg celebrates the two-hundred and fiftieth anniversary of its founding two days hence.

Lunenburg's history is indeed a most fascinating one, engaged as it has been over the years in fishing and shipbuilding, with a colourful sideline during prohibition when the sturdiness of the Lunenburg vessels and their crews once again proved to one and all their superiority on the seas.

Today, as Senator Moore reminded us, ships remain a key aspect of the culture of the Lunenburg. For example, the *Bluenose II* Preservation Trust is a volunteer organization

established to preserve and operate *Bluenose II* for the people of Nova Scotia. The purpose of the trust is to preserve the schooner and ensure that the legacy of traditional seamanship skills and the craft of building great wooden ships are maintained for future generations of Nova Scotians. The trust has a mandate to raise funds to ensure that *Bluenose II* continues in full operational status as Canada's sailing monument. I commend Senator Moore for his great leadership in its activities.

Lunenburg, on this two-hundred and fiftieth anniversary of its founding, is recognized by all of us for the significant contributions it has made to the history of Nova Scotia and Canada. As Lunenburg's past has been colourful and exciting, its future can only be the same.

Again, congratulations and all best wishes to its citizens. May they have a most successful and well-deserved June 7 celebration.

Hon. Marcel Prud'homme: Honourable senators, it never hurts to be gracious. I know that Senator Lynch-Staunton wanted to second the motion. In my enthusiasm for Lunenburg, I would have been honoured to be the one who seconded it. However, I want Senator Lynch-Staunton to do it.

I am very pleased to join with the Honourable Senators Moore and Lynch-Staunton to wish this beautiful city well. I have visited Lunenburg, and I wish that everyone would see it.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

• (1800)

The Hon. the Speaker: Honourable senators, I see it is now six o'clock. Is it your wish not to see the clock?

Hon. Senators: Agreed.

[Translation]

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

Hon. Fernand Robichaud (Deputy Leader of the Government): with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Monday, June 9, 2003 at 6:01 p.m.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned to Monday, June 9, 2003 at 6:01 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(2nd Session, 37th Parliament)
Thursday, June 5, 2003

GOVERNMENT BILLS
(SENATE)

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-2	An Act to implement an agreement, conventions and protocols concluded between Canada and Kuwait, Mongolia, the United Arab Emirates, Moldova, Norway, Belgium and Italy for the avoidance of double taxation and the prevention of fiscal evasion and to amend the enacted text of three tax treaties.	02/10/02	02/10/23	Banking, Trade and Commerce	02/10/24	0	02/10/30	02/12/12	24/02
S-13	An Act to amend the Statistics Act	03/02/05	03/02/11	Social Affairs, Science and Technology	03/04/29	0	03/05/27		

GOVERNMENT BILLS
(HOUSE OF COMMONS)

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-2	An Act to establish a process for assessing the environmental and socio-economic effects of certain activities in Yukon	03/03/19	03/04/03	Energy, the Environment and Natural Resources	03/05/01	0	03/05/06	03/05/13	7/03
C-3	An Act to amend the Canada Pension Plan and the Canada Pension Plan Investment Board Act	03/02/26	03/03/25	Banking, Trade and Commerce	03/03/27	0	03/04/01	03/04/03	5/03
C-4	An Act to amend the Nuclear Safety and Control Act	02/12/10	02/12/12	Energy, the Environment and Natural Resources	03/02/06	0	03/02/12	03/02/13	1/03
C-5	An Act respecting the protection of wildlife species at risk in Canada	02/10/10	02/10/22	Energy, the Environment and Natural Resources	02/12/04	0	02/12/12	02/12/12	29/02
C-6	An Act to establish the Canadian Centre for the Independent Resolution of First Nations Specific Claims to provide for the filing, negotiation and resolution of specific claims and to make related amendments to other Acts	03/03/19	03/04/02	Aboriginal Peoples					
C-8	An Act to protect human health and safety and the environment by regulating products used for the control of pests	02/10/10	02/10/23	Social Affairs, Science and Technology	02/12/10	0	02/12/12	02/12/12	28/02
C-9	An Act to amend the Canadian Environmental Assessment Act	03/05/06	03/05/13	Energy, the Environment and Natural Resources	03/06/04	0	03/06/05		

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-10	An Act to amend the Criminal Code (cruelty to animals and firearms) and the Firearms Act	02/10/10	02/11/20	Legal and Constitutional Affairs	02/11/28	Divided Message from Commons concurring with the division 03/05/07			
C-10A	An Act to amend the Criminal Code (firearms) and the Firearms Act	—	—	Legal and Constitutional Affairs	02/11/28	0	02/12/03	03/05/13	8/03
C-10B	An Act to amend the Criminal Code (cruelty to animals)	—	—	Legal and Constitutional Affairs	03/05/15	5	03/05/29		
C-11	An Act to amend the Copyright Act	02/10/10	02/10/30	Social Affairs, Science and Technology	02/12/05	0	02/12/09	02/12/12	26/02
C-12	An Act to promote physical activity and sport	02/10/10	02/10/23	Social Affairs, Science and Technology	02/11/21	0 + 1 at 3 rd 02/12/04 2 at 3 rd 03/02/04	03/02/04	03/03/19	2/03
C-14	An Act providing for controls on the export, import or transit across Canada of rough diamonds and for a certification scheme for their export in order to meet Canada's obligations under the Kimberley Process	02/11/19	02/11/26	Energy, the Environment and Natural Resources	02/12/04	0	02/12/05	02/12/12	25/02
C-15	An Act to amend the Lobbyists Registration Act	03/03/19	03/04/03	Rules, Procedures and the Rights of Parliament	03/05/14	1	03/05/28		
C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2003	02/12/05	02/12/10	—	—	—	02/12/11	02/12/12	27/02
C-25	An Act to modernize employment and labour relations in the public service and to amend the Financial Administration Act and the Canadian Centre for Management Development Act and to make consequential amendments to other Acts	03/06/03							
C-28	An Act to implement certain provisions of the budget tabled in Parliament on February 18, 2003	03/05/27	03/06/04	National Finance					
C-29	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2003	03/03/25	03/03/26	—	—	—	03/03/27	03/03/27	3/03
C-30	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2004	03/03/25	03/03/26	—	—	—	03/03/27	03/03/27	4/03

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
COMMONS PUBLIC BILLS									
C-31	An Act to amend the Pension Act and the Royal Canadian Mounted Police Superannuation Act	03/06/03							
C-39	An Act to amend the Members of Parliament Retiring Allowances Act and the Parliament of Canada Act	03/06/03							
SENATE PUBLIC BILLS									
No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-227	An Act respecting a national day of remembrance of the Battle of Vimy Ridge	03/02/25	03/03/26	National Security and Defence	03/04/02	0	03/04/03	03/04/03	6/03
C-249	An Act to amend the Competition Act	03/05/13							
C-300	An Act to change the names of certain electoral districts	02/11/19	03/06/03	Legal and Constitutional Affairs					
SENATE PUBLIC BILLS									
No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-3	An Act to amend the National Anthem Act to include all Canadians (Sen. Poy)	02/10/02							
S-4	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	02/10/02							
S-5	An Act respecting a National Acadian Day (Sen. Comeau)	02/10/02	02/10/08	Legal and Constitutional Affairs	03/06/03	2	03/06/05		
S-6	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	02/10/03							
S-7	An Act to protect heritage lighthouses (Sen. Forrester)	02/10/08	03/02/25	Social Affairs, Science and Technology					
S-8	An Act to amend the Broadcasting Act (Sen. Kinsella)	02/10/09	02/10/24	Transport and Communications	03/03/20	0	03/04/02		
S-9	An Act to honour Louis Riel and the Metis People (Sen. Chalifoux)	02/10/23	03/05/06	Legal and Constitutional Affairs					
S-10	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	02/10/31	03/02/25	Energy, the Environment and Natural Resources					
S-11	An Act to amend the Official Languages Act (promotion of English and French) (Sen. Gauthier)	02/12/10	03/05/07	Official Languages					
S-12	An Act to repeal legislation that has not been brought into force within ten years of receiving royal assent (Sen. Banks)	02/12/11	03/02/27	Legal and Constitutional Affairs					

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-14	An Act to amend the National Anthem Act to reflect the linguistic duality of Canada (Sen. Kinsella)	03/02/11							
S-15	An Act to remove certain doubts regarding the meaning of marriage (Sen. Cools)	03/02/13	Dropped from Order Paper pursuant to Rule 27(3) 03/06/05						
S-16	An Act to amend the Constitution Act, 1867 and the Parliament of Canada Act (Speakership of the Senate) (Sen. Oliver)	03/03/18							
S-17	An Act respecting the Canadian International Development Agency, to provide in particular for its continuation, governance, administration and accountability (Sen. Bolduc)	03/03/25							
S-18	An Act to amend the Criminal Code (lottery schemes) (Sen. Lapointe)	03/04/02							
S-20	An Act to amend the Copyright Act (Sen. Day)	03/05/15							

PRIVATE BILLS

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-19	An Act respecting Scouts Canada (Sen. Di Nino)	03/05/14							
S-21	An Act to amalgamate the Canadian Association of Insurance and Financial Advisors and The Canadian Association of Financial Planners under the name The Financial Advisors Association of Canada (Sen. Kirby)	03/06/03							

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CANADA

Debates of the Senate

2nd SESSION • 37th PARLIAMENT • VOLUME 140 • NUMBER 64

OFFICIAL REPORT
(HANSARD)

Monday, June 9, 2003

THE HONOURABLE DAN HAYS
SPEAKER



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(Daily index of proceedings appears at back of this issue).

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THE SENATE

Monday, June 9, 2003

The Senate met at 6:01 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

OPENING OF JUNO BEACH CENTRE

Hon. Joseph A. Day: Honourable senators, I rise today to provide an addendum to the statement made by the Honourable Senator Atkins last week relating to the commemorations of June 6 and the landing at Juno Beach on D-Day. I had the honour to attend, with Senator Meighen, the opening of the Juno Beach Centre. The centre at Courseulles-sur-Mer in Normandy was opened on June 6. More than 1,000 D-Day veterans were in attendance, veterans who had landed on the beach on that date. Prior to attending the opening, as part of a delegation with the Minister of Veteran Affairs, we attended a ceremony at the Canadian cemetery near the Juno Beach area, at Beny-sur-Mer, where more than 2,000 Canadian soldiers are buried.

I would highly recommend and commend to honourable senators the work done by Mr. Garth Webb, Chair of the Juno Beach Centre, and his organizing committee. The Juno Beach Centre is as impressive as any World War II monument, including those discussed in this chamber on previous occasions. The Juno Beach Centre is an interpretive centre that provides for interactive research with respect to veterans and those who lost their lives. It provides a wonderful setting for individuals to visit, to see what transpired on that date. I highly commend this monument, dedicated to an important time in Canadian history, to all honourable senators.

The Prime Minister of France, Jean-Pierre Raffarin, and our Prime Minister, the Right Honourable Jean Chrétien, were in attendance, along with many thousands of others, including the 1,000 veterans.

**THE HONOURABLE SHARON CARSTAIRS
THE HONOURABLE DONALD H. OLIVER
THE HONOURABLE RAYMOND C. SETLAKWE**

CONGRATULATIONS ON RECEIVING
HONORARY DEGREES

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I should like to bring to the attention of honourable senators that at least three — there may be others — of our colleagues have been honoured with honorary degrees. The Honourable Sharon Carstairs received an Honorary Doctorate of Laws from the University of Brandon; the Honourable Donald Oliver received an Honorary Degree of Laws from Dalhousie University; and the Honourable Raymond C. Setlakwe received an Honorary Doctorate from Bishop's University in Lennoxville.

Hon. Senators: Hear, hear!

QUESTION PERIOD

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS— STATUS OF NH INDUSTRIES AND LOCKHEED MARTIN CANADA BIDS

Hon. J. Michael Forrestall: Honourable senators, my question is for the Leader of the Government in the Senate. Could the Leader of the Government indicate to the house, by way of confirmation, that NH Industries has now withdrawn the NH90 from the Maritime Helicopter Competition?

• (1810)

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I have no knowledge, at this particular time, that it has been withdrawn.

Senator Forrestall: Honourable senators, it appears that the Leader of the Government in the Senate cannot tell me whether the Lockheed Martin-led NH90 bid is still alive and well in this competition.

Senator Carstairs: As the honourable senator knows, no bids have been submitted as yet, so I cannot indicate which bids have not been submitted from all of those bidders potentially capable of making such a bid. To the best of my knowledge, a number of companies are still considering the bid offering. Until the formal process has begun to receive those bids, I do not think that we have any confirmation about any of them.

Senator Forrestall: Honourable senators, surely the minister could find out for us, before the summer recess, whether NH Industries has withdrawn its bid and whether Lockheed Martin's bid, with virtually the exact same plane, except for Lockheed Martin instruments, is still in the running.

Senator Carstairs: No one is in the running, as the honourable senator puts it, since no one has submitted a formal bid to the Department of National Defence.

Senator Forrestall: Can the minister find out whether NH Industries is withdrawing from the competition?

Senator Carstairs: If the honourable senator is asking if they have withdrawn from the competition, I would assume that the company would make a public announcement to that fact. That would not be for the government to determine.

CANADA CUSTOMS AND REVENUE AGENCY

THEFT OF PERSONAL INFORMATION— PREVENTION SAFEGUARDS

Hon. Terry Stratton: Honourable senators, my question is addressed to the Leader of the Government in the Senate. Two weeks ago, the federal government admitted that personal information of about 200 Canadians, stolen by a Canada Customs and Revenue Agency employee, was sold to another party, most likely organized crime. The information stolen last fall included names, addresses and social insurance numbers, which are particularly valuable on the black market.

Could the Leader of the Government in the Senate tell us what specific safeguards have been introduced at the Canada Customs and Revenue Agency to ensure that this type of theft does not occur again?

Hon. Sharon Carstairs (Leader of the Government): Clearly, honourable senators, if such a theft has occurred and public information has been allowed to be distributed to people who should not have it, whether they are involved in organized crime or otherwise, then I would presume that the government has examined its security systems. However, as to the specific answer to the honourable senator's question, I would have to take it as notice and get back to him.

Senator Stratton: Honourable senators, I appreciate that response.

By way of supplementary, with an ever-increasing amount of personal information being compiled by the federal government, these types of events may unfortunately be more frequent in the future. Last year's report of the Auditor General brought attention to this problem, revealing that the government is not doing enough to prevent identity theft and that stricter controls on social insurance numbers are needed. What guarantee can this government give Canadians that their private information will not be easily subject to theft?

As we move ever further into this age of high technology, people are concerned that a lot of information being transmitted on the Internet and stored on computer files is easily stolen. What steps is the government taking to ensure privacy? I am sure the honourable leader would agree that privacy is important to all Canadians.

Senator Carstairs: Honourable senators, let me begin by stating that I am in full agreement that privacy is of absolute concern to Canadians. They have every right to expect their government to put security systems in place to protect the information to the highest level possible.

Having said that, we know that, on a fairly regular basis, there are people who are trying to find ways to break into these

systems. It is incumbent upon government to be vigilant. We should have up-to-date programming with the highest possible standard of security.

NATIONAL SECURITY

ASSESSMENT OF WAR ON TERRORISM

Hon. Michael A. Meighen: Honourable senators, events during the weekend in the Middle East and in Kabul indicate that international terrorism is indeed and unfortunately alive and well. They also indicate that the strategies of the world's various terrorist organizations are changing.

In the Middle East, once rival terrorist groups cooperated in a deadly attack on Israeli soldiers. Al Qaeda has been decentralizing and farming out attacks to smaller players in various countries.

My question is to the Leader of the Government in the Senate. Has a formal assessment been conducted by the government as to how the war on terrorism is proceeding? If there has been, can the leader share that information with this chamber? If not, given the changing nature of terrorism, would the leader agree that now is the time to conduct an assessment?

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for his question. To the best of my knowledge, there has not been a formal process put in place, but there is an ongoing process to monitor all of the new programs and initiatives that have been put into place to see whether they meet the standard established for them at the beginning of the program.

As the honourable senator indicated in his question, and he is absolutely right, the face of terrorism changes on almost a daily basis. The difficulty for government, particularly in the Departments of Foreign Affairs and Defence, is to ensure that we upgrade our systems. Bill C-17 is before the House of Commons, which, I hope, we will receive here shortly. It is another step in our strategy to deal with terrorism and terrorist activities. One hopes that we will have a better understanding of what the government is doing at that point.

Senator Meighen: Honourable senators, has consideration been given by the government, to how this most recent change in the nature of terrorism affects the threat level for Canada?

Senator Carstairs: Honourable senators, the threat level for Canada has certainly not been as high as it has been south of the border, as the honourable senator would well understand. That is an issue of concern, particularly as we take steps, which I think are right and proper for us to take, to ban certain organizations. That proposal is not well-received by those organizations, which clearly establishes a higher security risk for Canada. On the other hand, it is essential to do that in order to ensure that we are doing our part on the war against terrorism.

In terms of future work, work is ongoing. It will not cease and desist.

HEALTH

BOVINE SPONGIFORM ENCEPHALOPATHY—
SOURCE OF CASE IN ALBERTA

Hon. Leonard J. Gustafson: Honourable senators, it has been roughly 20 days since a case of BSE in Canada was made public. During this period, eighteen farms in Canada have been quarantined and hundreds of cattle have been slaughtered as part of the Canadian Food Inspection Agency's trace-out to determine the origin of this one case of BSE. In a press conference today, representatives of the CFIA reported that all of the diagnosed tests on the slaughtered cattle have come back negative and that this active part of the CFIA investigation is drawing to a close.

My question is to the Leader of the Government in the Senate based upon her government's reading of the CFIA report. Are we any further down the road to pinpointing the circumstances that led to this case of BSE in Canada?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, we should all be grateful for the hard work that those at CFIA have been putting into their endeavours during the past 20 days.

The honourable senator indicated the number of farms in quarantine. On Saturday June 7, five premises had quarantines lifted. Only nine farms remain quarantined, including eight in Alberta and one in British Columbia.

CFIA inspectors have removed just over 2,900 cattle from farms. Those cattle have been put down and they have been sampled. As he indicated, all of those tests have come back negative.

• (1820)

All I can say to my honourable friend is that, with all of this testing and all of the work that has been done, it appears that BSE is still only present in one cow.

INTERNATIONAL TRADE

BOVINE SPONGIFORM ENCEPHALOPATHY—
BEEF EXPORTS—REOPENING OF BORDERS

Hon. Leonard J. Gustafson: According to CFIA officials at today's press conference, an international review team began reviewing the findings of CFIA on the weekend. This international team seems to concur with CFIA's conclusion. Has the government sought assurance from our trading partners that they will base any potential decision to reopen our border to our beef products on the findings of science contained in this report by the international review team, or will other political considerations hinder the process of reopening international borders to Canadian beef exports?

Hon. Sharon Carstairs (Leader of the Government): As the honourable senator will know, the decision to reopen the border will not be made by Canada; it will be made by those countries to which we export, primarily to the United States. As he knows, 80 per cent of our cattle end up in that country.

I would remind the honourable senator that the international review team was invited to Canada, by the Canadian government, to establish the international profile we felt was necessary to open the borders as quickly as possible. It is one thing for us to say that the tests are all fair and equal and that they have only proven that one cow had BSE, but it was critical that an international review team make that evaluation. As was indicated today, that seems to be where they are going. We would hope that the pressure from the international review team would make it possible for other countries to open their borders.

HEALTH

BOVINE SPONGIFORM ENCEPHALOPATHY—
TRACE-OUTS IN UNITED STATES

Hon. Leonard J. Gustafson: It has been confirmed that five bulls, traced by the CFIA to two farms in the United States, will definitely not undergo similar quarantine and the testing to which the Canadian cattle have been subjected. In view of this circumstance, is the integrity of the BSE that CFIA traced out being compromised? If not, why not? If so, what has this government done to communicate these facts to the American government and to rectify the situation?

Hon. Sharon Carstairs (Leader of the Government): As the honourable senator knows, the processes for testing, evaluation and quarantine in this country are not identical to those circumstances south of the border. We have no control over their policies and the implementation of these policies. We can only do our very best in this country to ensure that we are conducting trace-out activities that will hopefully eliminate any further difficulties with our border.

HUMAN RESOURCES DEVELOPMENT

BOVINE SPONGIFORM ENCEPHALOPATHY—
AID TO BEEF INDUSTRY WORKERS

Hon. Leonard J. Gustafson: Honourable senators, I am sure the Leader of the Government in the Senate is aware that the Western premiers are currently holding a conference in Kelowna, B.C. High on the agenda for the premiers is the issue of the federal government's response regarding the issue of aid for Canadian beef. Would the Leader of the Government in the Senate please update us as to the status of any potential help for Canada's beef industry that will be forthcoming from the government?

Hon. Sharon Carstairs (Leader of the Government): As the honourable senator indicated in his opening question, it has only been 20 days since the discovery of the single case of BSE. We do not yet know the full extent of the damage that has been done to the beef industry. I do not think that we wish to be premature in putting up compensation programs that would not address the full needs.

Having said that, the Minister of Agriculture has spoken with his counterparts. He has indicated clearly that the federal government is concerned about the industry and about the implications of BSE in terms of their costs.

HEALTH

BOVINE SPONGIFORM ENCEPHALOPATHY— HANDLING OF OUTBREAK IN COMPARISON WITH SEVERE ACUTE RESPIRATORY SYNDROME OUTBREAK

Hon. Leonard J. Gustafson: It might be fair to say that, in regard to the cases of SARS in Ontario, we do not know the full implications of that disease either. Are there two sets of rules for what happens in Canada in regard to these issues?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, we must be fair. The SARS outbreak occurred some three and a half months ago. The government monitored the situation carefully, in the same way that it is monitoring the BSE outbreak. When it became clear that resources were needed, the federal government acted. I believe that we can count on the same kind of reaction with respect to BSE.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence, in our gallery, of Lord Williams of Mostyn, the Leader of the Government in the House of Lords, with his delegation from the United Kingdom.

On behalf of all honourable senators, I bid you welcome to the Senate of Canada.

HUMAN RESOURCES DEVELOPMENT

BOVINE SPONGIFORM ENCEPHALOPATHY— AID TO BEEF INDUSTRY WORKERS

Hon. Douglas Roche: Honourable senators, as Senator Gustafson pointed out, what began three weeks ago, with the sickness of one cow, has skyrocketed into a multi-million dollar crisis in the beef industry that affects the entire country.

The Western premiers' meeting that was referred to a moment ago received a report today, saying that the Alberta beef industry will be damaged beyond quick repair if the border stays closed for three months with no aid package. I have two questions.

First, on the question of aid and compensation, will the federal government take an aggressive position in developing an aid program of compensation for the producers as well as all those who are caught in the wide milieu of repercussions from this incident?

Second, dealing with the alacrity with which the border can be reopened, is the Canadian government able to make at least reasonable representation to the authorities from the United States — given that it was one cow, that 2,700 have been slaughtered and that there have been no cases of additional sickness — that this incident is isolated and that the border ought to be reopened as soon as possible?

Hon. Sharon Carstairs (Leader of the Government): As the honourable senator must realize, nothing would please the government more than to open the border with the United States, for 80 per cent of our exports, as quickly as possible. That

is why we have put all of our concentration and efforts, at this time, toward reopening the border. That is why the international committee was established. That is why CFIA has been conducting tests and depopulating the herds as necessary.

In terms of the compensation package, as the honourable senator said, the big concern will be how long the border will be closed. If we continue to get the good results that we received today, as Senator Gustafson indicated, results that the international review committee seems to be accepting, hopefully, the border can be opened quickly; then, any package that would be necessary would be far less in value.

Hon. Gerry St. Germain: Would the honourable minister present to cabinet the suggestion that it has only been 20 days but that this is a business different from most businesses? It is virtually a cash business. When you buy cattle, you pay for them right at that time.

Is there any possibility of introducing an interim measure of assistance for this business that is like no other business? Several people are under severe financial pressure as a result of this situation. Traditionally, they have always operated on a cash basis. As the minister knows, most businesses carry on operations on a 30- or 60-day basis.

Has any consideration been given to that aspect of assistance? If not, would the honourable leader be so kind as to take the matter to cabinet?

Senator Carstairs: I thank the honourable senator for his intervention. Yes, we are very aware, at the cabinet table, of the particular problems faced by this industry. For example, the immediate cry was for EI benefits. As the honourable senator knows full well, a trucker who is an independent operator does not qualify for that kind of benefit.

• (1830)

Representations of the kind that the honourable senator mentioned this evening, have, in fact, already been made, and I would assure the honourable senator that they will continue to be made.

[Translation]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table three delayed answers. The first one is a response to the question raised in the Senate on April 2, 2003 by Senator Atkins, regarding South Korea — personnel serving with United States Forces; the second is a response to the question raised in the Senate on April 1, 2003 by Senator Forrestall, regarding the personnel serving with Coalition Forces in the Persian Gulf; the third is a response to oral questions raised in the Senate on June 3, 2003 by Senator Meighen, regarding the War Museum on LeBreton Flats.

NATIONAL DEFENCE

SOUTH KOREA—PERSONNEL SERVING
WITH UNITED STATES FORCES

(Response to question raised by Hon. Norman K. Atkins on April 2, 2003.)

The Canadian Forces has no serving member in exchange programs with the US forces stationed in Korea.

PERSONNEL SERVING WITH COALITION FORCES
IN PERSIAN GULF—STATUS IN THE EVENT OF INJURY

(Response to question raised by Hon. J. Michael Forrestall on April 1, 2003.)

All Canadian Forces personnel serving on operations abroad are provided for, compensated and appropriately taken care of in the event of illness or injury. This includes foreign exchange CF personnel currently deployed in the Persian Gulf.

While the Pension Act and the RCMP Superannuation Act only provide for financial compensation in the event of disability or death in the completion of their duties, it is the designation of Special Duty Areas (SDA) which ensures that they are covered at all times while in the designated area.

Hence, the designation of SDA provides CF members who are deployed on operations abroad with around the clock coverage, known as “insurance principle” coverage, for death or any disability that they may suffer.

In the case of CF exchange members deployed with US and British troops in Iraq and Kuwait, they will be fully covered as these two countries have been designated as SDA under the Pension Act since August 1988 and August 1990 respectively.

HERITAGE

WAR MUSEUM—OVERRUN OF CONSTRUCTION COSTS

(Response to question raised by Hon. Michael A. Meighen on June 3, 2003.)

Canadian War Museum

The cost for the Canadian War Museum project has increased by a total of \$30M:

- Base building \$21.9M
- Collections, exhibits and visitor services \$6.1M
- Contingency \$2M

Current base building costs have gone up by \$21.9M:

A) Construction costs have increased by \$15M. Three factors affect the increase:

- a) inflation for building materials - \$7M (eg. concrete has gone up by 33 per cent)
- b) design changes including increasing the size of the lobby to allow flow through of people to the river - \$2M
- c) design changes to include the roof element “Salute to Democracy,” the Regeneration Hall and the copper roof - \$6M

B) Professional fees have risen by \$2M (Increases in construction costs lead to increases in professional fees and project overheads which are calculated on construction budgets.)

C) Site factors have increased over original estimates by \$4.9M to cover:

- a) site takeover costs including dewatering and backfill
- b) Ottawa River Parkway protection and shoring
- c) site services for water, sanitary et cetera.

Collections, exhibits and visitor services have increased by \$6.1M

A) Costs for fittings and equipment have risen by \$3.6M:

B) Exhibition costs have increased by \$2.5M due to:

- a) increased costs to deliver complete storyline with interpretive planning
- b) addition of open-storage concept to the original permanent exhibition space
- c) inflation

A contingency of \$2M has been included.

LeBreton Flats

- Contaminants on LeBreton Flats are comprised of heavy metals and petroleum hydro-carbons.
- Reports on the contaminants and how they are been or will be dealt with can be found on the National Capital Commission's (NCC) website at www.canadascapital.gc.ca. Follow the links to National Capital Commission (green box on left); Parks, Heritage and Development; Development projects; LeBreton Flats. Under Public Consultation, second paragraph, click on Library to find all the reports on the decontamination of LeBreton.

ANSWERS TO ORDER PAPER QUESTIONS TABLED

OFFICES OF PRIME MINISTER AND PRIVY COUNCIL—
COMMISSION ON THE FUTURE OF HEALTH CARE

Hon. Fernand Robichaud (Deputy Leader of the Government) tabled the answer to Question No. 6, raised in the Senate on February 2003—by Senator Tkachuk.

TRANSPORT—DOWNSVIEW PARK INC.

Hon. Fernand Robichaud (Deputy Leader of the Government) tabled the answer to Question No. 114, raised in the Senate on March 18, 2003—by Senator Stratton.

FINANCE—ALTERNATIVE FUELS ACT

Hon. Fernand Robichaud (Deputy Leader of the Government) tabled the answer to Questions No. 26, 27 and 28, raised in the Senate on February 5, 2003—by Senator Kenny.

NATIONAL DEFENCE—ALTERNATIVE FUELS ACT

Hon. Fernand Robichaud (Deputy Leader of the Government) tabled the answer to Question Nos. 87, 88 and 89, raised in the Senate on February 25, 2003—by Senator Kenny.

ORDERS OF THE DAY

LOBBYISTS REGISTRATION ACT

BILL TO AMEND—MESSAGE FROM COMMONS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill C-15, to amend the Lobbyists Registration Act, and acquainting the Senate that it has agreed to the amendments made by the Senate to this bill, without amendment.

[English]

CRIMINAL CODE

BILL TO AMEND—MESSAGE FROM COMMONS

The Hon. the Speaker: Honourable senators, the Senate has received the following message from the House of Commons:

ORDERED—That a message be sent to the Senate to acquaint their Honours that this House agrees with amendments numbered 1 and 5 made by the Senate to Bill C-10B, An Act to amend the Criminal Code (cruelty to animals); but

Disagrees with amendment numbered 2 because the amendment is inconsistent with the other elements of the offence and makes the law less clear and because the amendment would collapse two offences with different

elements into one single offence, leading to confusion about the elements of the offence and to problems for police and prosecutors;

Disagrees with amendment numbered 3 because it is unclear and creates confusion about whether the intent is to create a different test for liability of aboriginal persons and because there is no clarity as to what “traditional practices” are and how law enforcement can be expected to act accordingly; and

Agrees with the principle set out in amendment numbered 4, namely, the desire to reassure Canadians that no defences are lost, but, because the wording of the amendment would codify a reverse onus by requiring an accused person to prove his or her innocence on a balance of probabilities, would propose the following amendment:

Amendment numbered 4 be amended to read as follows:

Page 4, clause 2: Replace lines 22 to 24 with the following:

“182.5 For greater certainty, the defences set out in subsection 429(2) apply, to the extent that they are relevant, in respect of proceedings for an offence under this Part.”

ATTEST:

William C. Corbett
The Clerk of the House of Commons

Honourable senators, when shall this message be taken into consideration?

On motion of Senator Robichaud, motion placed on the Orders of the Day for consideration at the next sitting of Senate.

[Translation]

MODERNIZATION OF PUBLIC SERVICE BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Robichaud, P.C., for the second reading of Bill C-25, An Act to modernize employment and labour relations in the public service and to amend the Financial Administration Act and the Canadian Centre for Management Development Act and to make consequential amendments to other Acts.

Hon. Roch Bolduc: Honourable senators, we received a bill 15 days before the end of the session: a 279-page document. That is a lot of pages.

First, from the reading I have done, I can see that the officials who worked on it worked hard. There has been three years of debate within the public service. On the one hand, you have the Public Service Commission, which wants to keep its role, on the other, the administrators from departments, who want to manage their affairs, the Treasury Board, which has its hand on the till, and the unions, which say they want to be more involved. This difficult work finally resulted in a compromise, because there are no bosses in Parliament. There is a little give and take everywhere.

Second, the House of Commons studied this bill for four months. The bill comes to the Senate with hundreds of amendments that we are supposed to pass within 15 days. I like Ms. Robillard, the President of the Treasury Board, and she is doing a good job, but wanting our input before the end of the current session! I said to her, "We are going to sit all summer! I have no objection. I am available, but it is going to be hard work." This bill is of such importance for the federal public administration that it would be awful to pass it in a hurry. We are talking about the engine of government!

It is important that the fundamental principles be analysed properly, because many changes are being made in this bill. Of course, the most sensitive parts have been hidden in the middle of the bill. There are 150 pages at the beginning of the document on labour relations and working with unions, but the most important bits are hidden in the middle. I remember, from my time in Quebec's Parliament, how crazy things were at the end of a session in December and June. Nothing has changed.

The bill comprises four acts: the Public Service Labour Relations Act, the Public Service Employment Act, the Canadian Centre for Management Development Act and the Financial Administration Act. Imagine delegating authority to the deputy heads. The deputy ministers have long complained that they do not have the authority to manage their department as they see fit. They are going to get a bit more authority, but not much more. They gain a little authority relating to revocations and to small bonuses for officials who perform well.

It is impossible to get performance evaluations, except when it comes to bonuses. I have never understood this. There are no indicators to verify the performance of departments. The Auditor General has been telling us for years that there is no way to evaluate the performance of departments. At the same time, officials are being evaluated and all the evaluations are good.

• (1840)

It gives some other powers over training. It is a massive bill and affects some other acts: the Canada Labour Code, the Official Languages Act — because managers are supposed to be bilingual in certain positions — the Canadian Charter of Rights and Freedoms, the Canadian Human Rights Act, the Personal Information Protection Act, and employment equity.

Employment equity makes me think of how the government spent a couple of million dollars to create a classification plan for the entire public service. It was supposed to be perfect, but it does not work; it has been rejected and they have to start over. In the

meantime, the employment equity program is based on a plan that does not work. It is not easy to compare jobs. Jobs in the private sector are easy to compare, but there are functions within the government that do not have counterparts in private enterprise.

I think of the "tax assessors," and that explains why these people always say they are not paid enough. I will not give you a complete history of the public service.

However, I would like to tell you how some of the important stages and trends got started. Until 1917, departmental paternalism reigned supreme in personnel management. Civil servants were like a small family and they all knew each other. The politicians had great dignity and they hired people who were in need, and that sort of thing. It ended up, over the years, as a kind of patronage that was not just inevitable; it was sometimes improper.

The sources of inspiration were the British reform in 1855 and the American reform in 1883. In England, in 1855, it was decided to do things differently, to hold competitions, and to recruit from the universities, such as Oxford, Cambridge and others. They wanted senior civil servants to have good sense. It was important for England to have good public servants because these people ran the Empire. They led the planet. That was their method for selecting the best.

The American reforms began in 1883, after the assassination of President Garfield by a man who wanted a job and had been rejected. It was somewhat drastic, but that is what happened.

Here in Canada, we waited until 1917, a year when we had a coalition government. The reds and the blues were together; they governed well and they got rid of patronage because we were at war and needed good public servants to serve the government well. They decided to find a different way of hiring. They created the Public Service Commission. There was also some conflict between French and English Canadians. Most of the managers were English-speaking, and that was not right. Someone had to look out for the interests of minorities, and that is what they did.

However, the commission just monitored the situation. It was not really an organized entity. In 1935, Jean-François Pouliot, the member for Rivière-du-Loup, conducted an investigation and exposed federal patronage. It was not pretty.

It was a question of striking a balance, among other things, between managers, who were mostly anglophones, and the French Canadians. They tried to create a commission and tried to make an effort. Then war broke out; the roles of the government became more important and the federal mandarins arrived, mainly from Queen's University. They were important gentlemen. I read the history of the federal mandarins, which included Mr. Ritchie, Mr. Sharpe, Mr. Pearson, Mr. Norman Robertson, Mr. Reed, and several others. In 1945, they took charge and created a system.

Prime Minister King was a former civil servant. He had been Deputy Minister of Labour for years, and was therefore in favour of a good civil service. They introduced the concept of competition. I remember that they were very very prestigious competitions at the time. I remember, when I was at university, that the competition to enter the foreign service was a very prestigious competition across Canada. It was a competition including a jury, eligibility lists and appointments by order of merit. That resulted in the quality of senior officials we have today at the Department of Foreign Affairs. They built a tradition of excellence at Foreign Affairs and in the Departments of Finance, the Bank of Canada and so on. We owe the quality of our public service to the mandarins. They had foresight. They took the brightest young people, like they did in England.

There was the time when we adopted part of the American system for job classification and part of the British tradition of recruiting university graduates. I want to emphasize that these methods gave us a tradition of excellence. Quality in the senior public service is very important. I am not saying that public servants give poor advice, this happens at times, but they generally have a good deal of wisdom and they know their files.

In the 1960s, unionization was introduced, with a specific regime of labour relations. The Public Service Commission had full management rights under the laws of the day. It was decided that anything to do with labour conditions would be taken out of the Public Service Commission and put into a union system, and bargaining teams would be formed to deal exclusively with labour conditions, not anything to do with access to the public service, selection, promotion or anything else. In time, the unions were able to obtain arbitration decisions on staffing.

The commission also felt the pressure because the chairman of the commission at the time was a former deputy minister. He was familiar with the problems experienced by departments and, through the commission, he made it possible to delegate some of his powers through regulations. There was joint management, but only in part and only on working conditions.

Matters evolved as a result of a whole series of task forces, with the Glassco Commission on government organization and effectiveness, another commission on responsibility, studies on individual departments, and so on. This finally led to the Auditor General's report in 2001, which is pretty critical of current practices.

The Auditor General was not pleased with the practices that have evolved and said so. I will not get into details, but it is important for you to be aware of this.

Managers and employees continue to express their hesitation with regard to efforts to bring about the desired changes. Employees want more; they want to be more involved, to manage their own affairs. Since the beginning, the commission has wanted to retain its powers, and change is not easy. The excuse has always been respect for minorities. Managers wanted to get some powers back. Finally, this led to a certain degree of judicialization through grievances and appeals against actions taken by deputy heads.

• (1850)

The outcome is this bill, which attempts to reconcile all of these elements. The principles are, however, not always self-evident.

As far as the principles are concerned, for example, there is the matter of labour relations, where not a lot of changes are made, with the exception of introducing advisory committees. In my understanding of the bill, this reminds me somewhat of the Whitley Council. The English have had that for a long time. They avoided unionisation by having a Whitley Council system, which was a bipartite body where all working conditions relating to the employees were discussed. Recruitment was not included, but there was much discussion of everything else relating to employees' conditions. This created an atmosphere of collaboration that worked well for a long time in England. I wanted to try it out in 1963 in Quebec, when they wanted to unionize the public servants, but the CSN did not agree. They wanted a real labour relations system.

So there was the Whitley Council, the tribunal, and in the sixties the Pay Research Bureau, now defunct. We eventually became convinced that it would be a good thing if studies on pay and benefits were carried out by both parties simultaneously. So, the idea of a Pay Research Bureau has resurfaced, but it is almost bipartite in its composition, as it reports to the tribunal, which does have equal representation.

There is also recruitment and staffing, and they are the crux of the matter. For the sake of effectiveness, there is greater flexibility. We will come back to this point, because it is a serious one. Now there are a lot of preferences in the system. There has always, for instance, been the statutory one for hiring veterans. Today, there are preferences for veterans, for people who have been declared surplus and are about to be laid off, for trainees, for students who have already worked in various departments and could be good candidates. A whole series of preferences has been introduced into the system, as a result of pressures from unions, and now as a result we are far from the traditional merit-based system. I will come back to this point, because it is a fundamental one.

With regard to political activities, the possible sphere of political activities is broadened on the pretext of protecting workers' rights. I understand that all employees have rights. This applies to everyone, with the exception of deputy heads, which in the act means deputy ministers. It states that anyone else can be involved in politics, in political activities.

This is a major concern to me, not because I am a puritan, but because I have always felt that managers ought not to be involved in these things. There is a good reason for this: our entire system is based on the fact that political directions change as governments change. In order for the people to retain their positions, a compromise is needed. And the compromise is job security and the possibility of a career, provided there is total discretion, and advice to ministers being confidential, those advising ministers need to remain politically neutral, impartial. This is very important and the basis of the entire principle.

If people can get involved in politics whenever they want, no matter what aspect of politics, this will not be possible. There is something otherworldly about this. One section states that an individual can do anything as long as it is not reflected in the fulfilment of their duties. Really! Consider election workers, for example, who go to the minister's office the day after an election to say that they have worked for him and ask for a job. This is unwise, in my opinion.

I worked for politicians my entire life, and they need impartial advisors. They must get advice from people outside their inner circle. This is known as internal constitutionalism in administration.

I want to conclude with the delegation of additional management powers to deputy heads. Individuals found qualified by managers will be appointed. I do not mean that managers are not qualified to select those individuals, but this does concern me.

There is a certain paradox. There is a trend toward imitating the private sector and using the methods of private companies to manage the public service but, at the same time, to keep a separate Labour Code for Canadians. I understand that the employer does not want to broaden the scope of negotiations, but the result is nonetheless that this process becomes more litigious because the courts go beyond this.

The courts are generally quite sympathetic. Second, appeals are possible, and when there is legal recourse at this stage, the result is that the courts and the judges are called on to provide definitions, when they are unfamiliar with concrete cases. I am not saying that I do not respect judges, but, at some point, they will define merit. It is more complex than this.

There are complaints about the slow staffing process. Managers complain greatly about this and that is why they wanted additional amendments and powers delegated. Furthermore, there is the right to appeal any staffing decision. As a result, an individual can be disqualified if the judge so decides. Another paradox, under the pretext of freedom and law, is that everyone but deputy ministers will have the right to get involved in political activities.

There is another paradox. There will be increased training and yet candidates must be selected based on their qualifications. Why train them if they are already qualified? I can understand if it is management training, because public service management is distinct.

I would now like to speak about access to the public service. This is the foundation or the weakness I perceive in this bill.

In the private sector, the boss manages his or her staff as he or she sees fit — in compliance, of course, with the Canada Labour Code — to survive in a competitive system that, in theory, protects consumers. The goal is to make money. In the public service, there is no competition when it comes to carrying out the essential duties of the government. Defence is defence. Justice is justice. As a result, there is no competition. However, in order to

protect the public from monopoly conditions, the competitiveness of the private sector is compensated for with competitive rules in hiring by saying that the most competent are the most effective. This is the basic argument. Competency has a relative value. In order to measure competency, there needs to be a certain amount of competition. People are assessed based on competition.

In the public service, managers are not owners. They want to act as owners, but they are merely trustees. Therefore, there must be rules to govern them. One of our important constitutional principles, which the Honourable Senator Joyal underscored in his book on the constitutional architecture in Canada, which I read with pleasure, was that of democracy, thus equality of desirable opportunities for access to public employment. There are classes of jobs, and there are skills required. It is an open process; people can apply. That is the system.

The most concrete application of the fundamental principle of democracy in public administration is that of competition for jobs to enter into the government. If that does not exist, then it is something else. Everyone who meets the criteria has the right to apply. Competition is used to establish the relative value of candidates, and appointments are made based on that order.

The second principle of our constitutional law is the rule of law. This goes against the discretion of managers, thus the recruitment and selection process that is counterbalanced by the discretion of managers, under the pretext of effectiveness. There must be a certain balance between the two.

The hiring process is established to ensure that employees are hired based on merit and not favouritism. The rules are there to ensure that the best candidates are hired.

The beginning of section 10 of the current Public Service Employment Act reads as follows:

Appointments to or from within the Public Service shall be based on selection according to merit...

[English]

Honourable senators, today, the application of the merit principle usually means that there is a competition, candidates are ranked, and the candidate ranked number one gets the job.

The bill replaces the "best qualified" application of the merit principle with what the government calls a "value-based approach" to merit. That would allow managers to hire qualified and competent individuals more quickly, even if they are not the best qualified. We are told that this change is needed because the application of the existing safeguard results in a long, cumbersome and costly process that makes it difficult to attract skilled talent.

• (1900)

[Translation]

In some cases, such as engineering and auditing, the recruitment problems are exacerbated by substantially lower salaries than in the private sector. It is clear that there would be no applicants if there were no reward. Unless you are extremely keen on working in the public service, you will not relish being hired for a three-month period and having to go through a competition to keep your job. If the hiring process takes six months, perhaps it needs looking into. Talk to ordinary public servants and you will soon find out why it takes so long to fill a position. They will talk about poor planning, especially the plans for renewing staff, and about employees who leave files gathering dust on the corner of their desks for weeks and weeks.

[English]

The problem lies not in the merit system, it lies in the fact that moving the competition along quickly is not a priority.

Honourable senators, I am not the only one concerned by this attempt to water down the merit principle. Professor Renaud Paquet of the Université du Québec en Outaouais made the following statement before the Government Operations Committee in the other place:

My view is that the ideal regime would be one where the merit principle is enshrined in the legislation and where union-management negotiations are undertaken to determine how it is to be applied. Failing that, the current system seems to me to be far more relevant than what is being suggested in this Bill.

On March 25, Mr. Steve Hindle, President of the Professional Institute of the Public Service, told the same committee on March 25 that:

We fear that the flexibility provided to deputy ministers under the new provisions and the limited scope of redress will increase the incidence of bureaucratic patronage.

The questions are, what is the process used to determine the merit of the individual candidates and whether or not the criteria used to establish merit are subject to review, to public scrutiny in advance of the appointment being made; and what is to be the redress for employees who feel they are meritorious enough to have warranted being appointed?

He stressed that:

Staffing in the public service should continue to be on the basis of merit, and quite clearly the proposers of this legislation agree. Where we have a disagreement is on the definition of 'merit'. We believe it should continue to be the best-qualified person who is offered the job first.

[Senator Bolduc]

[Translation]

William Krause, of the Social Science Employees Association, appeared before that committee and said:

... we believe there should be competitive processes and that the process should be one of relative merit and not individual merit.

In other words, merit is analysed in terms of a group. Nicholas d'Ombrin, a respected senior public servant, who testified on April 28, said:

There is a tremendous amount of weight placed by the government on its changes regarding merit. I think these changes, to the extent that they're designed to streamline the staffing process, are probably desirable. But I have two concerns. The first concern is whether in fact the changes that they believe will flow from being able to set aside the jurisprudence in terms of the definition of merit, which has gathered like barnacles on the hull of a ship over the years, will take place. I have no answer to that. It is simply a concern.

Secondly, I'm somewhat doubtful about moving from what I call competitive merit — I believe it's called relative merit in the language in this part of government — to individual merit. I understand the reasons for doing this. But I just think that as a matter of principle the idea of competitive merit is long established and important.

[English]

Mr. D'Ombrin goes on to say the following:

It is important in the way in which the Public Service Commission has evolved over the years. Indeed, in 1918 the most important change that took place then, in my judgement, was the extension to the entire public service — civil service, as it then was — of the competitive system for entry and advancement. So there is a question in mind about that.

[Translation]

I will make a comment that may seem odd to you, but which I think is appropriate. I have always been somewhat sceptical of the French from France; however, they must be given the credit they deserve. Their own public service access legislation, or *Loi à l'accès à la fonction publique*, provides the following:

Public service employees are recruited by competition. Following each competition, the candidates selected by the jury are ranked by merit on a list. Appointments are made by order of listing on the eligible list.

It is of a dazzling clarity, and it makes a great deal of sense.

Senator Nolin: That is how it works.

Senator Bolduc: The French have many faults, but they think clearly. The British have been doing things the same way since 1855. We have done the same in this country, when we built up our public service after the war. Why not again? Because of delays? Whose fault is that? The commission has already delegated recruitment and selection to a large extent to the departments. People are complaining about delays. It must depend on how it is administered. It cannot depend on the competition principle.

I would like to have your attention while I demonstrate to you how we came to lose this practice. I am thinking here of the federal public service Post-Secondary Recruitment Program, which should be central to the public service renewal. We are talking about renewal because of the aging of the population. The Auditor General of Canada addresses this in Chapter 5 of her report. She finds it rather shocking that departments use the program so little. For instance, in 2002, out of a total of 18,000 new employees hired in the public service, 5,000 were graduates. This makes sense since the public service management is increasingly made up of specialized professionals. A mere 1,000 employees, or 20 per cent, were recruited through open competition. Alternatives such as individual recruiting for a given position are currently used. Instead of having an open competition, the competition is geared toward a single position. Take for example development programs. I have nothing against promoting from within, but when it comes to internship programs, those already enrolled come first. At present, determinate appointments have become the rule 95 per cent of the time. This does not make sense. Acting that way will destroy the federal public service. Statistics Canada is planning on renewing its labour force. It has never had problems recruiting statisticians, even though the job is difficult.

Not enough effort has been made to resolve the problem. People say it will be delegated to the department. I could quote several witnesses who appeared before the committee. Some of their evidence is troubling.

Finally, managerial discretion for purposes of effectiveness and bureaucratic patronage are not excluded. Additional court action will be taken through appeals and the courts will define merit. I find this is unacceptable. There is abuse of power and non-compliance with established procedure. This should be clear. These are public positions. Without public competitions, there cannot be equal opportunity. That is what union representatives fear. The irony is that it is the unionized employees who are worried the most. The Professional Institute of the Public Service and the social sciences group are worried the most about the future of the system. The quality of the public service depends specifically on these groups. I have the feeling that there are compromises being made so that everyone has their share. It is worrisome. After reviewing the issue, Mr. Searson from the Commission said that he thought we could live with it. It was given an additional role, two roles were removed, and another was added. He thinks this is a reasonable balance.

I was the President of the Public Service Commission and I can tell you that this will not work. We will run into problems in a few years because of this. We must avoid those problems. The public

service should be above politics and bureaucratic patronage. Ministers today are less imposing than before. The Minister of Defence is not concerned about who joins the department. The department has some 45,000 employees; it is large and very complicated. However, this way of acting works its way down throughout the entire system. The principle is that recruitment should be done as close to the work site as possible. Managers recruit candidates, middle management recruits their subordinates and so on. It will be dangerous if the rules of the game are not clear.

• (1910)

I particularly stress the fact that we need entrance competitions, public competitions for university graduates in order to acquire the best and the brightest in Canada, in Canadian universities, to do what needs to be done. The work done at the Bank of Canada, at Foreign Affairs, at Finance, is important, as is the work done at Treasury Board.

Those are my concerns.

[English]

The Hon. the Speaker: Would the Honourable Senator Bolduc take a question?

Senator Bolduc: Yes.

[Translation]

Hon. Marcel Prud'homme: Honourable senators, it is very interesting to hear what Senator Bolduc has to say, since we recognize his competence. I have nothing to gain from him in saying so, or he from me; it is a totally disinterested remark.

Senator Bolduc, you have referred to performance bonuses.

When people are hired for a job, they are supposed to do their utmost. I have never been able to get a satisfactory answer to this, but you have served under five or six premiers in Quebec, you have been the Secretary General of the Province of Quebec — the counterpart of Mr. Pitfield here in Ottawa — and President of the Public Service Commission, so perhaps you could help me out here. What is the purpose of giving performance bonuses, when a person has taken an oath to do his utmost? Some may have ten talents and others thirty, but we must give all we can. So why, then, do we have to suddenly give bonuses to producers, when that is that they were hired to do?

This must be frustrating for those who do not get a bonus. If I go to a meeting and hear that so-and-so got a bonus, and such and such another person as well, and I am sitting between two other high-level people who did not, I will start doubting their abilities, because their neighbours, in similar position, got bonuses.

I find your speech most enlightening.

Senator Bolduc: I do not support giving the public service bonuses. I might think it appropriate for, perhaps, some Crown corporations, where there is competition, as there is in private enterprise. In the private sector, performance is easy to measure: either there is a profit or there is not.

That is not my theory for the public sector. Obviously, at 74 years of age, my values are perhaps more in keeping with the baby boom than today, but this trend started only about ten years ago. There has been an increase in bonuses since there have been salary increases. This leaves me a bit pensive. The public service's work ethic is to do the best job possible and not depend on such things. Something I am still struck by is that Foreign Affairs employees are not paid more than necessary, and they are some of the most effective workers. They work around the clock, even Saturdays and Sundays. They do their duty and, overall, they are effective and productive workers. They are motivated by their career and by the work ethic of the public service. In my opinion, that is the most important aspect. I do not envy the fact that people get bonuses these days, but I do not understand it.

Hon. Pierre Claude Nolin: Are our numerous amendments of tax legislation not responsible for such practices? It is well known that, in the private sector, there are practices to allow employees to roll over, in their registered plans, sums of money that they could not have invested otherwise. Is there not a kind of parallelism with the private sector that has led to such practices?

Senator Bolduc: Possibly. The effort was made, because the government wants to change how it does things and older bureaucratic procedures. Today, a bit more flexibility is called for. It was an attempt to motivate people.

In the regular public service I am familiar with, I do not see the purpose of this. Even if the amounts are not yet astronomical, they are paid better than before. If I were to say anything about remuneration, it would be about Crown corporations, but I will come back to this.

On motion of Senator Cools, debate adjourned until the next sitting of the Senate.

[English]

LEGAL AND CONSTITUTIONAL AFFAIRS

MOTION TO AUTHORIZE COMMITTEE TO STUDY INCLUDING IN LEGISLATION NON-DEROGATION CLAUSES RELATING TO ABORIGINAL TREATY RIGHTS—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Robichaud, P.C.:

That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to examine and report on the implications of including, in legislation, non-derogation clauses relating to existing aboriginal and

treaty rights of the aboriginal peoples of Canada under s.35 of the *Constitution Act, 1982*; and

That the Committee present its report no later than December 31, 2003.

Hon. Nick G. Sibbeston: Honourable senators, the matter of non-derogation clauses in federal legislation has been raised in this chamber many times in the last few years. The issue arose because of unilateral changes made to these clauses by the government, beginning in 1998. Until then, in the vast majority of federal statutes dealing with non-derogation rights as provided for in the *Constitution Act, 1982*, section 35, the wording was based on section 25 of the *Charter*. The wording in several pieces of federal legislation was clearly as follows:

...nothing in this Act shall be construed so as to abrogate or derogate from any existing aboriginal or treaty rights of the aboriginal peoples of Canada...

This wording, from 1982 to approximately 1998, appeared in a number of pieces of federal legislation, beginning with the *Firearms Act*, the *Sechelt Indian Band Self-Government Act*, the *Canada Petroleum Resources Act*, the *Canada Wildlife Act*, the *Canada-Newfoundland Atlantic Accord Implementation Act*, and the *Canada-Nova Scotia Offshore Petroleum Resources Act, 1994*.

The wording of non-derogation clauses is particularly important because of their role as an interpretive guide to the courts. Even small changes in wording necessarily cause uncertainty. The courts must evaluate each change in wording and try to surmise what Parliament intended.

Although variations in wording began appearing in 1998, it was with the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, in 2001, that the issue really came to the full attention of the Senate. In that act, Canada proposed wording that differed from the clear wording used in earlier legislation. This new wording stated:

For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from the protection provided for —

The next section highlights the change.

— existing aboriginal or treaty rights of the aboriginal peoples of Canada...

• (1920)

Government lawyers argued before us in the hearings in the Energy Committee when we dealt with this matter that using wording from the *Constitution Act, 1982*, might have afforded greater protection to section 35 rights than that contained in the *Constitution* itself. The absurdity of this argument is self-evident. They also argued that the new wording appeared in the *Mackenzie Valley Resource Management Act* in 1998 and had been used ever since. In 1998, however, the *Canada Marine Act* used wording that was different again, stating:

...nothing in this Act shall be construed so as to abrogate or derogate from the application of section 35...to existing aboriginal or treaty rights...

In 1999, the Social Union Framework Agreement, signed by the Government of Canada and all the provinces and territories, except Quebec, reverted back to wording very similar to that contained in the Charter.

The proliferation of these differing non-derogation clauses creates uncertainty as to their legal effect. Where constitutional rights are at issue, we strongly feel the Department of Justice should not be using legislation as a testing ground for its evolving and often unilateral interpretation of section 35 rights. Aboriginal people rightly view the inclusion of section 35 in the Constitution as a high-water mark in Canada's acknowledgement of their solemn duty to fulfil treaty rights of Aboriginal peoples. The uncertainty created by the constant shifting of the government's position has caused considerable and legitimate apprehension on the part of Aboriginal peoples, who fear that clauses, which were used to protect their rights, may instead be used to limit them or, at worst, open floodgates as to the intrusion of these rights.

The original intent of non-derogation clauses was to set out that it was Parliament's intent to respect Aboriginal rights and not to infringe upon them. Subsequently, the Supreme Court, in the *Sparrow* decision in 1990 and others subsequently, such as *Van der Peet* in the mid-1990s, established that Parliament could infringe on Aboriginal rights in certain circumstances and established clear tests for when and how this could be done. In the wake of these decisions, the new wording developed by the Department of Justice appears to be designed to allow legislation to be read as if it were Parliament's intent to infringe upon them, whether or not this was explicitly the case. We went from clearly wanting to uphold Aboriginal rights to wanting to provide room for legislation to infringe on those rights.

With respect to the Nunavut Waters and Nunavut Surface Rights Tribunal Act, the Senate amended it by deleting the non-derogation clause contained within it. This was preferable to letting the bill pass with the new wording. It is important to remember that this act was a special case. The purpose of the act was to implement part of the Nunavut land claim. The Inuit believed that having a weakened non-derogation clause actually was worse than having none at all. They were, of course, comforted by the fact that the legislation contained inconsistency clauses, making it invalid where it conflicted with their land claim settlement. They asked that the non-derogation clause be removed, and the Senate, I am proud to say, provided them with that remedy.

This was, as I described, a special case. The general remedy for Aboriginal people is not the removal of non-derogation clauses but the return to the pre-1998 wording.

Nonetheless, as Aboriginal senators continued to press the government to address this issue — in our discussions of the National Marine Conservation Areas Act and the Species at Risk Act — this was precisely the solution the Minister of Justice initially proposed. In a letter to the Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, he proposed removing non-derogation clauses from all existing

legislation and not having such clauses in the future. It was never the position of Aboriginal senators that deleting non-derogation clauses was an option. Fortunately, Aboriginal senators and the minister's own cabinet colleagues persuaded the Minister of Justice that this approach of deleting all non-derogation clauses in federal legislation was neither appropriate nor feasible.

In April of this year, we were able to meet with the minister to discuss how we might proceed and deal with this important matter. At the time, the idea of having a Senate committee to examine the issue was raised. However, we agreed that, before we went that route, it would be worthwhile to have further discussions to determine if we could come up with a solution ourselves that might be acceptable to both the government and Aboriginal peoples. We did meet several times and made some progress. Aboriginal senators did make a specific proposal that would have inserted a positive statement about upholding Aboriginal treaty rights in the Interpretation Act.

In proposing a solution, we recognized that there are two separate but connected issues at stake. The first is the desire on the part of the government, senators and Aboriginal peoples to uphold the integrity of Aboriginal and treaty rights and not to abrogate or derogate from them. The second is that the capacity of Parliament to pass legislation consistent with the Constitution should not be enhanced or diminished. We, therefore, proposed the following wording for the Interpretation Act amendment:

- (1) Every enactment shall be construed so as to uphold existing Aboriginal and treaty rights recognized and affirmed under section 35 of the Constitution Act, 1982, and not to abrogate or derogate from them.
- (2) For greater certainty, nothing in subsection (1) enhances or diminishes the capacity of Parliament to make laws consistent with section 35 of the Constitution Act, 1982.

This was the proposal we placed before the minister's officials.

Existing clauses in enacted legislation could be left alone, as this amendment would supersede them. Of course, there would be no requirement for including a non-derogation clause in future bills. This proposal had the advantage of dealing with the issue once and for all and of applying to all federal legislation. We would no longer have to look at every piece of legislation and question whether there ought to be a non-derogation clause. The provision in the Interpretation Act would apply to all federal legislation.

However, we could not reach an agreement. We held two meetings and eventually the government leader introduced the motion to have the matter referred to committee. I generally support this approach and look forward to sharing my views with the committee, discussing some of the ideas we have developed in the past few years. In addition to the proposal concerning the Interpretation Act, we suggested the option of a stand-alone Aboriginal bill of rights. This was a comprehensive four- or five-page document that would set out the rights of Aboriginal people. Either option could be combined with the inclusion of an

Aboriginal rights audit in the Department of Justice Act. This act now includes a requirement for a Charter of Rights audit on all legislation. Why not have an Aboriginal rights audit where the Minister of Justice could report to Parliament and the Senate on matters affecting Aboriginal rights?

My own hope is that the committee will recommend a return to the original non-derogation wording based directly on section 25 contained in some once-and-for-all form. The wording was perfectly acceptable and worked well for many years, from 1982 to 1998. There may be other alternatives that the committee will discover, that will hopefully achieve the same.

As for the complex issue of Aboriginal rights, I urge senators to focus on the issue of non-derogation rights, a statement in legislation that says that Parliament is not to derogate or abrogate from the rights of Aboriginal people. As to what those rights are, I think the courts that have been defining them, for the most part. We need to focus on the matter of providing a good non-derogation clause.

Hon. Senators: Hear, hear!

On motion of Senator Nolin, for Senator Beaudoin, debate adjourned.

• (1930)

[Translation]

THE ESTIMATES 2003-04

SECOND INTERIM REPORT OF NATIONAL FINANCE COMMITTEE ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Di Nino, for the adoption of the Sixth Report of the Standing Senate Committee on National Finance (*Second Interim Report on the 2003-2004 Estimates*) presented in the Senate on May 27, 2003.

Hon. Roch Bolduc: Honourable senators, I draw your attention to two problems pointed out to the President of the Treasury Board. The first concerns the remuneration of presidents of Crown corporations.

I do not know who drafted the standards. I have already mentioned that the official remuneration of the President of Canada Post was around \$500,000, but when I met him recently, he told me his salary was not \$500,000. I believe he receives a salary of around \$350,000 plus benefits.

Still, I am surprised when I look at these categories. I know we can pay them good salaries, but the President of the Bank of Canada earns less than the President of Canada Post. That upsets me greatly. If there is one position of great importance in a Crown

corporation, it is the President of the Bank of Canada. I would just like to mention it because we do not know who set the criteria.

A little while ago, Senator Prud'homme was talking about bonuses, and that was partly because of what Senator Nolin was saying about income taxes, and also the fact that consultants have been hired recently. The government hires a number of consultants and they are very expensive. They come from the private sector. There is always a problem. That is what I want to say here. Our role as legislators is to be very much aware that everyone has interests, even the senior public servants. It is important that people know that. We talk quite a bit about the interests of the unions, and government managers have interests, too, which is one reason why the way the act has been amended gives me some trouble. We are going to broaden discretionary powers, and we are not going to select the most qualified any more. In other words, we will have a list, and all those who qualify to be on the list will be in the running.

We are far from the 1950s, when we built the federal public service with the best. That is what I wanted to say about compensation. The classification criteria are not clear. I have nothing against it; one of my friends put it together. It is a monopoly situation. It must stop.

Second, it is very important to improve infrastructure. Between Canada and the United States, trade is \$700 billion a year, which is \$2 billion a day, rain or shine. Among other things, 87 per cent of our trade is done with the United States. We trade more with them than all of Western Europe put together and three times more than with Japan. We have to look at the importance of this trade to us. In fact, of the 87 per cent of goods I just referred to, 70 per cent are transported in trucks, which is enormous. In other words, one truck crosses the border every two and a half seconds. There are not that many bridges; there is the Ambassador Bridge in Detroit, the Peace Bridge in Buffalo, and the Blue Water Bridge in Sarnia. Of course, a few trucks cross at Lacolle and the Thousand Islands. For your information, the Ambassador Bridge was built in 1929 when trucks had two wheels — two in front and two in back, the Peace Bridge in 1927 and the Blue Water Bridge in 1938. We have the infrastructure to conduct an unbelievable amount of trade with the United States. Can you fathom how much money I am talking about?

There is a place with only one lane in each direction, it reminded me of the Taschereau Bridge, between île d'Orléans and Quebec City. You must not be in a rush. However, if you have business transactions that are costing 10 per cent more because of delays, things need to move faster and arrive just in time. When people have to wait for one more hour, it represents 25 per cent of our trade with the United States.

It is important that the government hurry, that bridges remain as is. I do not think that a tunnel will be built for the time being, but we should at least prepare the site, so that it can be used.

The other day I went by Fort Erie. I was lucky. There was one lane open, and the other side had a line of trucks a mile long. It costs people who are waiting a fortune. We cannot allow this. We must build infrastructure, not just in the form of bridges but roads too. I think the infrastructure is very important. I rarely call for spending more public dollars. I was raised in the Duplessis era,

and we did not waste money. However, I must say, frankly, that the federal government must do more than it is doing now. It just announced \$300 million for Detroit. That is not much when you consider the situation and the amount of traffic there. We must do something. I would like the government to be aware of this situation, so as not to add to the costs involved in doing business.

[English]

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

FEDERAL NOMINATIONS BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Stratton, seconded by the Honourable Senator Murray, P.C., for the second reading of Bill S-4, to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions.—(*Honourable Senator LeBreton*).

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, Bill S-4 will provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions. This bill should be embraced by all honourable senators and should not require any further debate to sustain the reasonableness and the public interest that would be served by such a statute.

On motion of Senator Kinsella, for Senator LeBreton, debate adjourned.

• (1940)

CANADIAN ASSOCIATION OF INSURANCE AND FINANCIAL ADVISORS

CANADIAN ASSOCIATION OF FINANCIAL PLANNERS

PRIVATE BILL TO AMEND ACT OF INCORPORATION— SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Kirby, seconded by the Honourable Senator Mahovlich, for the second reading of Bill S-21, to amalgamate the Canadian Association of Insurance and Financial Advisors and The Canadian Association of Financial Planners under the name The Financial Advisors Association of Canada.—(*Honourable Senator Lynch-Staunton*).

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, since my intervention on Thursday I have received two legal opinions, one from the petitioners and one

from our own Law Clerk and Parliamentary Counsel, both unanimous in saying that there is no other way to effect the merger of the two entities except through this process.

This still does not take away from my concern that there is a better way, maybe not in this case, but it seems to me that Parliament should be out of the business of incorporating non-profit organizations because it adds a burden to that organization whenever it wants any changes made. For instance, Senator Di Nino has a private bill on behalf of Boy Scouts of Canada asking for a change in their name. It is a very costly, lengthy process. Under the Corporations Act, it could be done within 15 minutes by application. It would be nice to think that some day the government of the day could find legislation that would absolve all those corporations and other entities incorporated by act of Parliament from having to come back to Parliament for any changes. I suppose that is wishful thinking.

I am glad that Senator Kirby is here because I meant to ask him this after he made the presentation on behalf of this bill. Perhaps, in his closing remarks, he might address the fact that clause 15 of the bill states that:

This Act shall come into force or be deemed to come into force on the 12th day of June, 2003.

That is called a retroactive clause, something in which Parliament should not engage. Perhaps Senator Kirby, if he cannot today explain the purpose of that unusual provision, will raise it in committee. I would like to share with him and others my concern that it exists in this bill. Again, retroactivity, by itself, is not something in which we should engage.

That being said, I have no objection to having this bill referred to committee and to having the debate continue there.

The Hon. the Speaker: Are we ready for the question, honourable senators?

Hon. Michael Kirby: Honourable senators, I wish to respond to the question raised by the Honourable Senator Lynch-Staunton.

As I indicated last week, I share his concern.

The Hon. the Speaker: Senator Kirby, I was not too sure whether you would speak or not.

It is my obligation to inform honourable senators that if the Honourable Senator Kirby speaks now, his speech will have the effect of closing the debate.

Senator Kirby: Honourable senators, I wish to repeat what I said last week and echo support for what Senator Lynch-Staunton said a minute ago in that it is unfortunate there was no other way around this issue. Perhaps, one thing the Standing Committee on Rules, Procedures and the Rights of Parliament ought to consider is whether there is a way to deal with these private members' bills, which get us into a situation where we have to do things such as amend even minor name changes. I would gladly support that matter being discussed before the Rules Committee.

I do not like retroactive clauses either. There is one in this bill, which I suppose would end up being retroactive if the bill is not completely finished with by June 12. I was told that this date had been selected some time ago because both organizations are having their annual meeting on that date. I would be delighted to see that issue discussed in committee. In fact, if the bill had to be slightly amended so that it came into effect on proclamation, I would not be upset.

With that, honourable senators, I believe that closes the debate.

The Hon. the Speaker: It was moved by the Honourable Senator Kirby, seconded by the Honourable Senator Mahovich, that this bill be read the second time. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Kirby, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

BOY SCOUTS OF CANADA

PRIVATE BILL TO AMEND ACT OF INCORPORATION— SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Jaffer, for the second reading of Bill S-19, respecting Scouts Canada.—(*Honourable Senator Jaffer*).

Hon. Mobina S. B. Jaffer: Honourable senators, it is my honour and pleasure to speak today to Bill S-19, respecting Scouts Canada, as it deals with an organization that is close to my heart.

When most people think of scouting, the image they have in their minds likely consists of a group of young men in green or beige uniforms camping in the woods, learning survival skills and perhaps singing campfire songs. However, I believe that scouting today is much more than this. The lessons it teaches young people go well beyond wilderness survival skills; there are much deeper life lessons that it teaches as well.

Scouting helps young people to learn to have confidence in themselves and in their abilities. It gives them a profound sense of responsibility to themselves, others and their environment. It teaches self-reliance that is valuable not only in the wilderness but in other situations as well.

Scouting helps youth to form strong relationships with others and build lasting friendships. It teaches them to become leaders and to play a vital role in the society in which we live. These are

things that cannot always be learned in conventional schools and can only be acquired by the type of experience scouting offers.

As it says in the *Scout Handbook*, a scout is a member of the great youth movement started by Lord Robert Baden-Powell. Baden-Powell thought it would be a good idea to teach boys some of the skills of scouting. Scouts should be strong, courageous, alert, able to read the smallest signs of nature and the tracks of animals, able to survive in the wilderness, always ready and willing to help each other, and able to decide what to do and when to do it.

Lord Baden-Powell believed scouting affected a young person's education, appreciation of religion and a greater promotion of peace. Lord Baden-Powell, founder of the scout movement, set out a number of reasons why scouting was an important educational experience. He stated that the secret of sound education is to get each pupil to learn for himself instead of instructing him by driving knowledge into him by a stereotyped system.

Regarding appreciation for religion, Lord Baden-Powell said, "Though we hold no brief to any one form of belief over another, we see a way of putting the boys in touch with their objective, which is to do their duty to God, through doing their duty to their neighbour, in helping others in doing their daily good turns and rescuing those in danger. Self-discipline, unselfishness, chivalry become acquired and quickly form part of their character. These attributes of character, coupled with the right study of nature, must of necessity help to bring the young soul in closer touch to spiritually with God."

He also spoke of the greater promotion of peace. Lord Baden-Powell went on to say, "Before you abolish armaments, before you can make treaty promises, before you build palaces for peace delegates to sit in, the first step of all is to train the rising generations in every nation to be guided in all things by an absolute sense of justice. When men have it as an instinct in their conduct of all affairs of life to look to the question impartially from both sides before becoming partisans of one, then if a crisis arises between two nations, they will naturally be more ready to recognize the justice of the cause and to adopt a peaceful solution, which is impossible so long as their minds are accustomed to run to war as the only resource."

Lord Baden-Powell goes on to say, "In the scouting movement, we have it in our power to do a great thing by introducing practical training in justice and fair play, both through games and practise in the field, and through arbitrations, codes of honour trials and debates in the club room."

• (1950)

Honourable senators, scouting helps young people to achieve their goals to the best of their ability. In 1974, the advantages of the scouting experience were broadened significantly when young girls were, for the first time, included in the organization's mandate. This change, which is reflected in the legislation before us today, is of tremendous significance and personal importance to me because I believe that all young girls should reap the benefits of a scouting experience. I know how much my own experience with scouting has enriched my life and how the lessons I learned have stayed with me to this day.

As Senator Di Nino has already said, the informal lessons that Scouts Canada teaches us today are in line with the original and ongoing mission of the organization, as well as with the vision of its founder Lord Baden-Powell.

Passage of this bill will update the existing statutes that govern the scouting movement in Canada. Not only will the bill change the name of the organization from Boy Scouts of Canada to Scouts Canada, but it will also to reflect the change in its mandate to include young girls.

Honourable senators, scouting is in my blood. My mother grew up knowing Lady Baden-Powell in Kenya. As a guide, she went on to become a guide leader. To this day, she is associated with the guiding movement. I was a Brownie, a Girl Guide, a Queen's Guide and then a 2nd Queen's Guide in Uganda. I was also a Girl Scout in the U.S. In Canada, I was a Ranger leader and a Commissioner of Guiding for a number years. With my husband, I was a Beaver and a Venturer leader. In the 1980s, my husband, Nuralla, and I started a co-ed group of Venturers, one of the few in the country, while I was still a Girl Guide Commissioner. We started the co-ed Venturers group because we believed this was a way to bring girls and boys together to work on joint projects and, most important, to learn to relate to and challenge each other.

We felt that involvement in the scouting program would give girls the opportunity to gain confidence and help them in their careers. We took the boys and girls to many camps. The conversations around the campfires and afterwards were interesting and, at times, challenging. We learned to trust them and, as time went on, they were working together cooking meals, climbing hills, going on long hikes and helping each other to achieve their goals.

We took our co-ed group to the World Jamboree in Kananaskis, Alberta. When the girls returned from the jamboree, they were confident knowing that they could do all the outdoor activities just as well as the boys could do them.

The greatest compliment my husband and I received recently was from a female member of our co-ed group, a Venturer, who told us that she was doing well in her work and was able to compete because, as a Venturer, she learned certain skills. She told us that being a Venturer taught her that she was as good as any boy, and that helped alleviate any fear she had.

As a previous Girl Guide Commissioner, I believe that the Girl Guide movement is important for girls' growth. I also believe that the co-ed group helps to build confidence in young people.

Lord Baden-Powell often said that when he spoke of scouting, he included, in his comments, guiding also.

I would thank Senator Di Nino for introducing Bill S-19.

Lady Baden-Powell said in her autobiography: "Both associations have set up working parties to discuss how to bring the two movements up to date to meet the needs of a more sophisticated rising generation. I was anxious that both movements should keep to my husband's constant stipulation

that scouting and guiding should be simple and that it should be fun. Provided these qualities were retained and provided that basic principles of scouting and guiding were not altered, I saw no harm in changes. If the movement is to live up to its name, it must move with the times. I know I am old but I should never oppose changes simply because it is change particularly if the times demand a new look."

Honourable senators, I support this bill because it will help to sculpt the future of scouting for young people and it will bring the law into accord with the realities of scouting at the present.

I believe that all honourable senators can support this bill, and I urge all senators to go one step further and support the Canadian Scouting Movement in their own regions to ensure that our young people are given the opportunity to participate in the unique experience that scouting offers.

I thank honourable senators for their attention.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read a third time?

Hon. Consiglio Di Nino: Honourable senators, rule 115 of the *Rules of the Senate* calls for a delay of one week for a private bill originating in the Senate before it can be considered by a committee. Recognizing that we are now in the middle of June, I spoke with Senator Furey, Chairman of the Standing Senate Committee on Legal and Constitutional Affairs, to ask if his committee would have time to consider this bill within the next week. He told me that his committee will attempt to make time to study this bill. In the vein of that gesture, on behalf of my colleague Senator Furey, I move:

That, with leave of the Senate and notwithstanding rule 58(1)(a), that rule 115 be suspended in respect of Bill S-19, respecting Scouts Canada, and that the bill be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

The Hon. the Speaker: Is leave granted, honourable senators?

Some Hon. Senators: Agreed.

Hon. Anne C. Cools: I did not quite understand why leave was required.

The Hon. the Speaker: Leave is being requested to move a motion to suspend rule 115 in respect of any study of this bill. Rule 115 indicates that one week must pass before a committee may consider a private bill.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, this bill simply changes the name of the organization. It contains nothing controversial. As I understand it, there is nothing to be debated at committee. Is there any way we can move to third reading and refer the bill to the House?

Senator Di Nino: With unanimous consent, honourable senators, we could proceed to third reading of this bill. I thank the honourable senator for making such a suggestion and I would, therefore, ask for unanimous consent to move to third reading of the bill.

Senator Cools: Honourable senators, it is unusual not to refer a bill to committee. If it is so straightforward, then the committee will deal with it swiftly and return it to the house. However, the process is to refer it to committee. Many such private bills have been referred to committee and have been dealt with expeditiously. I would, therefore, suggest that it go to committee so that there can be no perception by the scouts' organization that any part of the process was circumvented. As a member of the committee, I can promise Senator Di Nino that I will use whatever influence we have to deal with the bill with dispatch.

The Hon. the Speaker: The house would require unanimous consent to proceed, as suggested by Senator Lynch-Staunton. It is not forthcoming.

[Translation]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, this side of the chamber has no objections to the motion before us being withdrawn. We consent to moving straight to third reading, as the Honourable Senator Lynch-Staunton just proposed, in order to consider this bill as soon as possible and to be of service to the Canadian Scouts Association.

[English]

The Hon. the Speaker: Honourable senators, before we agree to proceed to that question, I should remind the house of the provisions of rule 113, which states:

After its second reading, a private bill shall be referred to a committee, and any representations before the Senate for or against such bill stand referred to such committee.

Honourable senators, leave would be required to waive rule 113. I think Senator Cools has indicated what the result of that would be. Would the Honourable Senator Di Nino care to ask for leave?

Senator Di Nino: I would be delighted to move, with leave, that rule 113 be suspended and that we proceed to third reading of Bill S-19.

The Hon. the Speaker: Is leave granted, honourable senators?

Some Hon. Senators: Agreed.

Senator Cools: No.

The Hon. the Speaker: Leave is not granted. Senator Di Nino will have to move his original motion again for clarity.

• (2000)

Senator Di Nino: I move that rule 115 be suspended and that Bill S-19 be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

CANADIAN ASSOCIATION OF INSURANCE AND FINANCIAL ADVISORS CANADIAN ASSOCIATION OF FINANCIAL PLANNERS

PRIVATE BILL TO AMEND ACT OF INCORPORATION— REFERRED TO COMMITTEE—REQUEST TO WAIVE RULE 115

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, with respect to Bill S-21, which the house has referred to the Standing Senate Committee on Banking, Trade and Commerce, the opposition would be agreeable to waiving rule 115 so that the Standing Senate Committee on Banking, Trade and Commerce could deal with that bill forthwith and not have to wait a week.

The Hon. the Speaker: Is it agreed, honourable senators, that section 115 of our rules be suspended with respect to any study of Bill S-21?

Hon. Anne C. Cools: What is Bill S-21? There is something fishy here.

Senator Robichaud: There is nothing fishy.

The Hon. the Speaker: To answer the question of the honourable senator, Bill S-21 is proposed legislation to amalgamate the Canadian Association of Insurance and Financial Advisors and The Canadian Association of Financial Planners under the name The Financial Advisors Association of Canada. It is a private bill.

Senator Cools: Are we being asked to waive rule 115 or rule 113?

The Hon. the Speaker: Honourable senators, the request to the Senate is that rule 115 be suspended with respect to any study of Bill S-21.

Senator Cools: Honourable senators, will it go to committee?

The Hon. the Speaker: It has already been referred to committee.

Senator Cools: Agreed.

The Hon. the Speaker: It is agreed, honourable senators.

Translation]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, when I asked for leave from the Senate, a comment was made to the effect that this was fishy. I can assure all the honourable senators that there is nothing fishy in what we are doing. It is all straightforward and proper.

English]

Hon. Marcel Prud'homme: Honourable senators, I would ask that we stop the practice of reverting to items on the Order Paper. I have no objection to the matter we are dealing with; I am on the Banking Committee, so I will study Bill S-21, if need be.

Nevertheless, I hope we stop reverting. If an honourable senator who may be interested in a particular matter leaves after the matter in question has been stood, it may come as a surprise to him or her to find that the house has reverted to that matter.

Senator Cools: Honourable senators, we should be clear as to what happened. It is unusual to waive rules. It is unusual to be calling for unanimous consent time after time. When these procedures are being called upon routinely, honourable senators should raise questions.

Senator Robichaud: It is not fishy.

STUDY ON PUBLIC INTEREST IMPLICATIONS OF BANK MERGERS

REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE—ORDER STANDS

On the Order:

Resuming debate on the consideration of the Sixth Report of the Standing Senate Committee on Banking, Trade and Commerce entitled: *Competition in the Public Interest: Large Bank Mergers in Canada*, tabled in the Senate on December 12, 2002.—(Honourable Senator Lynch-Staunton).

Hon. Tommy Banks: Honourable senators, do I understand that there is time left on the Order Paper for this item. I should like to speak to this, but there are senators, not currently in the chamber, who I would prefer to be here to hear what I have to say.

The Hon. the Speaker: If the honourable senator wishes to speak on another day, the answer is yes.

Order stands.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED TO STUDY PUBLIC HEALTH GOVERNANCE AND INFRASTRUCTURE— DEBATE ADJOURNED

Hon. Michael Kirby, pursuant to notice of June 5, 2003, moved:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and report on the infrastructure and governance of the public health system in Canada, as well as on Canada's ability to

respond to public health emergencies arising from outbreaks of infectious disease. In particular, the Committee shall be authorized to examine and report on:

- the state and governance of the public health infrastructure in Canada;
- the roles and responsibilities of, and the coordination among, the various levels of government responsible for public health;
- the monitoring, surveillance and scientific testing capacity of existing agencies;
- the globalization of public health;
- the adequacy of funding and resources for public health infrastructure in Canada;
- the performance of public health infrastructure in selected countries;
- the feasibility of establishing a national public health legislation or agency as a means for better coordination and integration and improved emergency responsiveness;
- the Naylor Advisory Group Report and recommendations.

That the Committee submit its report no later than March 31, 2004.

He said: Honourable senators, I shall be brief. This motion arises from the fact that there has been considerable public discussion about whether Canada has adequate infrastructure to deal with public health emergencies such as SARS, West Nile virus and so on. A number of members of the committee and a number of people in the health care field who have followed the work of the committee have suggested that a very short, concentrated study be undertaken, which we would hope to complete before the middle of November. We set a date of March 31 next year, but we would hope to complete the study much faster than that.

• (2010)

First, the study would seek to address the question of whether Canada has adequate infrastructure for public health emergencies such as SARS and, if not, what is needed. As part of that review, we would look at the question of whether Canada needs an equivalent of the Centers for Disease Control in Atlanta. There is a tendency for people to want to jump on that bandwagon without giving the question adequate thought.

Second, we would hope to examine the report of the Naylor commission, which was appointed by the federal government under the chairmanship of David Naylor, Dean of the Faculty of Medicine at the University of Toronto. The commission includes representatives from a variety of medical associations and,

interestingly enough, the Centers for Disease Control. It is looking specifically at how the SARS issue was handled in Toronto. Its deadline to report is July 31. We think it is important, as do a number of other people, that this committee give its views on the appropriate federal response to the Naylor report. We will deal with the specifics of the Naylor report and the broader question about whether Canada has the adequate infrastructure to address public health emergencies and, if not, what the infrastructure would be.

I know that the question of money will arise. We anticipate that this study will cost perhaps nothing, at best, or an insignificant amount.

The only witnesses we would call from outside the country could testify via teleconference. If we need to hear witnesses from inside the country, we believe they can be heard without spending money. We do not see the need for the committee to travel. We hope to have finished the study by the end of October. We have given ourselves some leeway in case we are not able to finish our study by that time.

On motion of Senator Kinsella, for Senator LeBreton, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

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OFFICIAL REPORT
(HANSARD)

Tuesday, June 10, 2003

—
THE HONOURABLE DAN HAYS
SPEAKER



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(Daily index of proceedings appears at back of this issue).

OFFICIAL REPORT

CORRECTION

Hon. Tommy Banks: Honourable senators, this is not a matter of any substance but I wish to ask for a correction in the Debates of the Senate of yesterday. At page 1553, I asked for information as to whether we could continue a debate later. Reference is made to the sixth report of the Banking Committee. That was not the report to which I referred. It was, in fact, Senator Nolin's report on the question of illegal drugs, cannabis in particular. I would ask that a correction be made in that respect because I would not want to get Senator Kolber into trouble.

The Hon. the Speaker: Senator Banks, would you indicate what the correction is, please?

Senator Banks: The correction should be, I believe, halfway down page 1553 in the English version. The wording that follows "On the Order: Resuming debate" should be the wording of Order No. 2 on the Order Paper under "Other," referring to Senator Nolin's report, instead of "Resuming debate on the consideration of the Sixth Report of the Standing Senate Committee on Banking, Trade and Commerce." I would not want the record to indicate that I was suggesting that I was wanting to speak on a Banking Committee report.

The Hon. the Speaker: Is it agreed, honourable senators, to make the correction as requested by Senator Banks?

Hon. Senators: Agreed.

THE SENATE

Tuesday, June 10, 2003

The Senate met at 2 p.m., the Speaker in the Chair.

[Translation]

Prayers.

SENATOR'S STATEMENT

AGA KHAN FOUNDATION CANADA

WORLD PARTNERSHIP WALK

Hon. Mobina S. B. Jaffer: Honourable senators, on Sunday, May 25, 2003, over 26,000 people across the country participated in the Aga Khan Foundation Canada's World Partnership Walk to raise money for humanitarian projects in the developing world.

This year, the walk raised more than \$3 million across Canada. The Canadian International Development Agency, CIDA, will match every cent raised. CIDA has done so every year since the walk's inception.

For the past 19 years, the Aga Khan Foundation, with the steadfast support of CIDA, has organized the walk so that Canadians realize what people in other parts of the world are going through and to create an awareness of being part of the global family in which every member is as valuable as any other.

The Aga Khan Foundation has now become one of the leading philanthropic organizations in the world. AKFC directs all of the money raised through Partnership Walk sponsorship to projects focused on health, education, culture and economic development, primarily in Africa and Asia. The World Bank and CIDA evaluate these projects and have concluded that the "Aga Khan Foundation Canada's stewardship and utilization of donor funds is impeccable." The Aga Khan Foundation is one of the agencies under the aegis of the Aga Khan Development Network, which includes Aga Khan Education Services, Aga Khan Trust for Culture, Aga Khan University and the Aga Khan Fund for Economic Development.

The Shia Ismaili Muslim community around the world takes enormous pride in the work of their leader, His Highness Shah Karim Aga Khan, and the AKDN, which he directs.

We, in Canada, derive much comfort and satisfaction in being able to contribute and play a small part in the global thrust to improve the lives of those most in need. It is through the hard work and dedication of the Aga Khan Foundation, its volunteers, and the unwavering support of CIDA, both monetarily and symbolically, and the generosity of the Canadian public and industry that this event has been successful and continues to grow in scope and profile every year. This is truly the Canadian way.

I hope honourable senators will join me in congratulating the Aga Khan Foundation Canada for another tremendous World Partnership Walk and for its outstanding efforts in humanitarian work around the world.

ROUTINE PROCEEDINGS

OFFICIAL LANGUAGES

THIRD REPORT—NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO REQUEST GOVERNMENT RESPONSE

Hon. Rose-Marie Losier-Cool: Honourable senators, I give notice that tomorrow, Wednesday, June 11, 2003, I shall move:

That, in accordance with paragraph 131(2) of the *Rules*, the Government of Canada, namely the Department of Justice, provide the Senate and the Standing Senate Committee on Official Languages with a complete and detailed response to the Third Report of the Committee, adopted by the Senate this past June 5, 2003.

HUMAN RIGHTS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF LEGAL ISSUES AFFECTING ON-RESERVE MATRIMONIAL REAL PROPERTY ON BREAKDOWN OF MARRIAGE OR COMMON LAW RELATIONSHIP

Hon. Shirley Maheu: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the date for the presentation by the Standing Senate Committee on Human Rights of the final report on its study upon key legal issues affecting the subject of on-reserve matrimonial real property on the breakdown of a marriage or common law relationship and the policy context in which they are situated, which was authorized by the Senate on June 4, 2003 be extended to Wednesday, December 31, 2003.

[English]

QUESTION PERIOD

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS—PRESS CONFERENCE ON MARITIME HELICOPTER PROJECT

Hon. J. Michael Forrestall: Honourable senators, last week, we attempted to shed some further public light on the whole process of acquisition of a replacement for the Sea King helicopter. Of course, that is not really surging ahead. Therefore, I thought I would ask the Leader of the Government in the Senate a question based upon a briefing held last week by the Chief of Defence Staff, General Henault; Paul Labrosse, Project Manager of the

Maritime Helicopter Project; Colonel Wally Istchenko, Deputy Project Manager; and Lieutenant-Colonel John Mitchell, Project Director for the Air Force for the Maritime Helicopter Project. Obviously, this was a damage control briefing to the press about this program. My question is to the minister: Why is it these gentlemen — the learned professionals — can talk to the press but not to parliamentarians?

• (1410)

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I do not think there is any reason they cannot talk to parliamentarians. The honourable senator is the Deputy Chairman of the Standing Senate Committee on National Security and Defence. If he were to ask those individuals to appear before that committee, I am sure they would do so.

Senator Forrestall: So there!

Perhaps the minister could tell us who prompted that briefing.

For the benefit of those of us who are interested, would the minister be kind enough to obtain a transcript of the press conference, if one is available? I have a feeling it might come in handy in the remaining few days that we are here.

Can the Leader of the Government in the Senate tell us why the press conference or damage-control moderator, Lieutenant Commander Scanlon, stated that there are "clearly political dimensions to this defence procurement," a fact that the other participants in this thinly veiled damage limitation exercise later denied?

Senator Carstairs: Obviously, the honourable senator thinks this is damage control. I would prefer to see it as an example of the Department of National Defence being forthcoming about a project of interest to all Canadians.

CITIZENSHIP AND IMMIGRATION

IMMIGRATION AND REFUGEE BOARD— ALLEGATIONS OF BRIBERY

Hon. David Tkachuk: Honourable senators, an RCMP search warrant unsealed last week reveals that people associated with criminal organizations in Ottawa and Montreal have been pressuring immigrants to pay bribes to Immigration and Refugee Board judges in exchange for favourable outcomes at their hearings.

The immigrants are told that they will lose their case if they do not each pay a bribe of \$10,000 to \$12,000. Two judges are under investigation for allegedly accepting these bribes, and a total of 14 immigration cases are under investigation for being tainted by illegal activity.

Will all of the cases heard by the Immigration and Refugee Board involving these two judges be reviewed for possible illegal interference?

Hon. Sharon Carstairs (Leader of the Government): As the honourable senator knows, this investigation is being conducted by the RCMP. I think it is in excellent hands and I intend to leave it in their hands.

Senator Lynch-Staunton: Like the Airbus investigation! That was a great success, too.

Senator Kinsella: How much did that cost?

Senator Tkachuk: Honourable senators, Immigration and Refugee Board judges are appointed by the federal government, and candidates for these positions are not required to have prior legal training. One of the accused judges had been convicted in 1988 on charges of breach of trust. Both judges under investigation were political appointees having ties to one former and one current Liberal cabinet minister. Could the Leader of the Government tell us if this scandal will prompt the federal government to change the process by which appointments are made to the Immigration and Refugee Board?

Senator Carstairs: I think the honourable senator should have a bit of respect for the rule of law. There is an investigation going on here. No charges have been laid. There is no reason for change of policy until we know if, in fact, people have committed criminal activities.

JUSTICE

LEGAL DEFINITION OF MARRIAGE

Hon. Gerry St. Germain: Honourable senators, my question is also to the Leader of the Government in the Senate. It concerns a decision released today by the Ontario Court of Appeal, which upheld a lower court decision that determined that same-sex marriages should be legal under the Canadian Charter of Rights and Freedoms and called upon Parliament to change the definition of marriage accordingly.

As endorsed by Parliament in June 1999, the legal definition of marriage should remain the union of a man and a woman, as recognized by the state. This issue is one of social policy and, in the view of many of us, it should remain in the hands of Parliament.

The House of Commons Justice Committee is drafting a report on the issue of same-sex marriage, following its cross-country hearings. This is an integral part of the parliamentary decision-making process and many of us believe it should not be allowed to be pre-empted by the courts.

The government appears to be allowing a constitutional amendment via a backdoor process. Why is the government not getting ahead of this issue instead of waiting, as it is?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the government established a legitimate process. It was to review, in a discussion with Canadians from coast to coast to coast, their reaction to definitions of marriage. That report, as the honourable senator indicated, is expected shortly. I suspect it will be available later this week.

Surely the honourable senator is not proposing that when the courts make decisions, the Government of Canada should pay no attention whatsoever to those decisions, in particular if a case goes all the way to the Supreme Court of Canada and that court rules?

Senator St. Germain: Honourable senators, I do not believe I inferred that we should ignore the courts. All I am saying is that Parliament has a responsibility. If judges are to get involved in writing law, which some interpret that they are doing, then they should be elected just as the members in the House of Commons are elected, as far as I am concerned. This is a concern of many.

I know that we differ on this issue, minister, but many of us believe the government is allowing the erosion of spiritual values in this manner. I am not speaking of strictly Christian values but also of spiritual values of several denominations. I think it is important that this issue be raised in the manner that I am trying to present it because there are two sides to this argument. There is the secular side and there is the other side.

Senator Carstairs: The honourable senator is quite right. I totally disagree with him on the issue of the election of judges. I believe that judges should not be concerned about facing the electorate when they are interpreting laws — because they do not make laws — that will clearly have an impact on all Canadians.

The erosion of spiritual values of which the honourable senator speaks, I suspect, depends on one's interpretation of a spiritual value. There are those of us who would have contrary spiritual values to those of the honourable senator, and those values would still be spiritual, not secular. We would not necessarily come down on the same position on this issue.

Senator St. Germain: Honourable senators, for clarification, I believe, as do many Canadians, that judges are, in fact, writing laws by virtue of their decisions as opposed to interpreting them. I agree with the minister: If the judges strictly interpret, that is one thing, but if they go a step further, I believe they should be elected.

Senator Carstairs: Honourable senators, I cannot let that go without a comment. The role of the judiciary is to interpret law. They do it, I think, extremely well. It is up to parliamentarians to make laws, and I think we generally do that pretty well, too.

CITIZENSHIP AND IMMIGRATION

UNITED STATES—SMART BORDER PLAN— SAFE THIRD COUNTRY AGREEMENT

Hon. Donald H. Oliver: Honourable senators, an RCMP intelligence report is warning that Canada may soon see a rise in incidents of illegal migrants and people-smuggling as a result of a refugee pact between Canada and the United States. The Safe Third Country Agreement is part of a larger deal known as the Smart Border Plan, which recognizes each country as a safe haven

for refugees, therefore requiring them to ask for protection in the first country in which they land. The RCMP report states that Canada may have to deal with an increase in the number of Chinese migrants returning to Canada after trying to enter the United States and that immigrants may also turn, in desperation, to people-smuggling operations in order to enter the country.

Did the federal government raise these concerns with the U.S. government during the negotiations for this deal, and does the Safe Third Country Agreement address this problem at all?

• (1420)

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, generally speaking, there has been a concern, both by Canada and the United States, as to the illegal trafficking of people from place to place. There is both illegal trafficking of people into the United States and illegal trafficking of people into Canada.

Clearly, the purpose behind the Safe Third Country Agreement was to ensure that the country where an individual entered was the country with which a refugee or a person who was, perhaps, acting in an illegal way would have to deal. That is a good agreement.

As the honourable senator knows, a great number of our claimants come from the United States because they have used the United States as a landing point to then enter Canada. The purpose of this agreement is to ensure that the United States will deal with those individuals, as we will deal with the individuals who landed here first.

If the honourable senator is asking if this is a matter of discussion, I can only assume so because both countries have been on the record as indicating their concerns about illegal migrations and trafficking.

INVOLVEMENT OF ORGANIZED CRIME IN IMMIGRATION PROCESS

Hon. Donald H. Oliver: Honourable senators, the RCMP affidavit revealed last week, in relation to the police investigation at the Immigration and Refugee Board of Canada, states that criminal organizations that targeted refugees for bribery schemes are also involved in smuggling illegal immigrants into Canada. This means that criminals involved with people-smuggling may have had a relationship with the two judges who were sworn to protect refugees. What is the government doing to crack down on people-smuggling operations run by organized crime?

Hon. Sharon Carstairs (Leader of the Government): As the honourable senator knows, the very fact that there is a RCMP investigation underway on these potential abuses, and I say "potential" or "alleged abuses," is proof positive that the government wants to ensure that there is nothing illegal with the processes and that each refugee or immigrant who comes to this country does so lawfully and in good faith.

HEALTH

WEST NILE VIRUS—INCEPTION OF SCREENING TEST

Hon. Wilbert J. Keon: Honourable senators, my question is for the Leader of the Government in the Senate. Canada Blood Services has set July 1 as the date to put in place a test to screen blood donors for the West Nile virus. Could the Leader of the Government in the Senate tell us if Health Canada still expects the test to be available as of July 1?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I thank the honourable senator for his question. As far as I know from the information available before me, they do expect to have the test in place by July 1. However, there is also a contingency plan in place to protect the Canadian blood system, should the screening test be unavailable.

WEST NILE VIRUS—STOCKPILING OF BLOOD—
SCREENING TEST

Hon. Wilbert J. Keon: Honourable senators, Canada Blood Services is currently conducting a national drive to stockpile blood products in the event that human cases of West Nile disease are found early. Will the stockpile also be screened for the West Nile virus once the test is in place?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I do not know. As the honourable senator knows, Canadian Blood Services is stockpiling ahead of time on the supposition that that blood would be free of West Nile virus. I will have to take as notice the part of the question about whether they will then do a screening test. I will get back to the honourable senator.

WEST NILE VIRUS—SUSPECTED CASE IN WALPOLE,
ONTARIO—BLOOD DONATIONS IN REGION

Hon. Wilbert J. Keon: Honourable senators, a young boy on Walpole Island, Ontario, was suspected last week of having the West Nile virus and since, thankfully, has tested negative. Could the Leader of the Government in the Senate tell us if blood donations were accepted in this region while the boy's test results were being determined?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I do not know the specifics of that case, but I will seek the information for the honourable senator.

NATIONAL DEFENCE

CONGO—DEPLOYMENT OF PEACEKEEPING TROOPS—
RULES OF ENGAGEMENT

Hon. Michael A. Meighen: Honourable senators, last week, the European Union decided, in cooperation with the United Nations, to send a peacekeeping force of some 1,400 troops to the Democratic Republic of the Congo. It has been reported that

the Liberal government will make a contribution to that force, consisting of three Hercules aircraft which will spend their time serving both the Congo operation and the reconstruction effort in Iraq.

The report in the *National Post* today states:

...a group of 60 Canadian soldiers arrived in Uganda yesterday....Some of the Canadians then immediately departed for Bunia, a town in the DRC's Ituri region which has been at the centre of the fighting.

Honourable senators, the conflict in the Congo has already cost the lives of 3 million people in four and one-half years and the killing is ongoing. There is fear that a Rwanda-type genocide is about to take place.

In Rwanda, General Roméo Dallaire warned the United Nations of the likelihood of a massive slaughter, but as honourable senators will recall, no one listened. As a result General Dallaire stood helplessly by as the genocide took place and he has been traumatized ever since.

Can the Leader of the Government in the Senate please share with this chamber the rules of engagement for the peacekeeping force in the Congo and whether Canada has had any say in determining those rules, along with the size of the force and its mandate? Can she also assure us that the peacekeeping force that we are planning on contributing to has the strength and mandate to prevent a Rwanda-like slaughter? Finally, can she assure us that our contribution will not detract from our contribution to Afghanistan?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I will begin with the last question first. The reason that we are sending such limited numbers of troops to the Congo is because of our commitment to Afghanistan. Given the number of very difficult situations in the world and the size of our forces, it is clear that it is not possible to have them in every theatre of this kind of activity.

The French are leading the group that are in the Democratic Republic of the Congo. They specifically asked for our Hercules aircraft and they asked for the troops necessary to maintain those aircraft to be used to provide the supply services required.

That is, unfortunately, our only contribution to the Congo at the present time. It is definitely very modest, but it is clear that that is the extent of what we were able to lend to this mission.

Senator Meighen: Honourable senators, the leader will not be surprised that I am not surprised that we cannot contribute more given the reduced size of our Armed Forces under the current government.

Senator Kinsella: Who reduced them?

Senator Meighen: Could she tell us, as I asked initially, the rules of engagement? Are these limited number of troops handcuffed in the same fashion as General Dallaire was handcuffed a few years ago?

Senator Carstairs: Honourable senators, frankly, they are doing a different function, as I understand it, than General Dallaire did in his service in Rwanda. He was the lead person for the United Nations in that engagement. We are there helping the French-led interim emergency force in that republic. My understanding is that we are merged with them for the purposes of providing the modest contribution that we can.

Senator Meighen: Honourable senators, surely it behooves us to know exactly the rules of engagement governing the French force of which we are told that we are a part. What are the rules of engagement governing the French force? Can we take any comfort that we will not be faced with a situation similar to that faced by General Dallaire?

Senator Carstairs: Honourable senators, I can seek to obtain any details on the rules of engagement for the honourable senator. Clearly, our role is very different in the Democratic Republic of the Congo than it was in Rwanda. We did not accept the United Nations mission that was accepted in the case of Rwanda. All too regrettably, the United Nations did not respond to General Dallaire when he put the requests forward. If there are any details on the rules of engagement that I can obtain for the honourable senator, I would be pleased to do so.

Senator Meighen: I would suggest to the honourable leader that anyone bent on slaughter will not make the same fine distinctions as we can make in this chamber.

• (1430)

FOREIGN AFFAIRS

CONGO—PROVISION OF HUMANITARIAN AID

Hon. Douglas Roche: Honourable senators, my question also concerns the Congo. However, I will skip the preamble, which has been well articulated by Senator Meighen, and turn to the humanitarian side of this crisis. Experts on the ground are saying that, even though a UN-mandated military force will attempt to stop the civil war and restore order, a huge death toll is expected as a result of lack of food and water, and all the customary issues of underdevelopment.

I ask the government leader if Canada will support or even take the lead in mounting a huge humanitarian effort in the Congo that could be run by experts on the ground, such as Doctors Without Borders, who have the capacity to alleviate the human suffering that is being compounded by the killing which we hope will now stop.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators will be interested in the fact that Canada has tripled its assistance to the DRC over the last three full fiscal years, from nearly \$8 million in 1998-99 to nearly \$25 million in 2001-02. Of this amount, bilateral aid represents approximately \$11 million, with the rest going to humanitarian aid. That means that, in the past four years, Canada has provided \$32 million in humanitarian food aid to the Democratic Republic of Congo.

We have not lost sight of our ongoing commitment to the Congolese people. We will continue to support them but we cannot do it alone. There are a number of hot spots in this world of ours. Canada has reached out, as you know, to the people of Afghanistan. It is now reaching out to the people in Iraq. The

government is continuing to fund its humanitarian commitments to the Congo but others must pick up the torch as well.

Senator Roche: Honourable senators, I take the government leader's point that no one country can solve problems alone. However, can we not make a special effort now? I appreciate the figures that were given about our bilateral aid to the Congo over the past few years, but this is a crisis of gargantuan proportions. More than 3 million people have been killed already, and who knows how many more will perish? Is the situation not such that there should be a special effort made by Canada at this moment?

Senator Carstairs: Honourable senators, I think special efforts have been made. Our special envoy helped create the conditions for a hopeful return to peace in the DRC. He is working with the United Nations and our international partners, as well as with all Congolese parties involved. At the UN's request, we are participating in an international committee for the support of the transition in the DRC. That group has already met several times.

Our work in the Congo is ongoing. Is the world responding enough to what may well be 3 million deaths to date? I think both of us share a deep concern about that.

HEALTH

SEVERE ACUTE RESPIRATORY SYNDROME— AID TO HEALTH CARE WORKERS

Hon. Jeremiah S. Grafstein: Honourable senators, the health workers of the greater Toronto area — the GTA — doctors, nurses, hospital workers — have, for many weeks now, provided heroic service in the front lines of the battle to contain the SARS outbreak. Indeed, I have been told that, based on recent statistics, approximately 50 per cent of the SARS cases have been health workers. Indeed, a few have died from this disease acquired in the line of duty.

Could the Leader of the Government in the Senate advise the Senate what, if any, immediate plans the Government of Canada has to assuage the economic needs of these heroic health workers who serve selflessly to protect the public health of our society?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I am not sure what the economic needs are of these health care workers at the present time. It is clear that many are suffering from overwork, from exhaustion, from conditions where there are inadequate numbers of staff. I was informed this morning, for example, that a call has gone out for 60 additional health care workers with specific specialties. The federal government is working with the medical community to send those specialists to Toronto.

The provincial government, I understand, has made an announcement about increased benefits for staff within the SARS-affected areas. You are quite right: Those who have been working on this epidemic — which was thought to be one cluster but has now moved to two, and possibly to three — deserve the grateful thanks of a grateful nation.

Senator Grafstein: Honourable senators will be aware that doctors, for example, have suffered severe economic loss. Their offices have been closed. Surgeons have not been able to operate. Specialists have not been able to perform their duties, and nurses have found themselves serving countless periods of overtime.

It is not satisfactory to simply say that we should thank them and congratulate them; that is obvious. These are unique and special circumstances. There is no question that this crisis affects the public health of our entire society. It strikes me that, based on the number of tools that the Government of Canada has to deal with emergency situations, the government might reach into that toolbox and help assuage the current needs of these health workers.

I say that because this is a pressing need. Anyone who attends at any public health facility in Toronto immediately realizes what this involves, whether it is a doctor's office, a clinic or a hospital. These nurses are working overtime to protect our public health. They are soldiers, and, as such, they should be entitled to some economic treatment, a message of economic help, to say, "Listen, we hear you and we will help you."

Senator Carstairs: Honourable senators, as I indicated, the nurses are working extraordinary numbers of overtime hours. That is leading, in some cases, to exhaustion. It is also leading in some cases, quite frankly, to nurses' resignations. They are no longer able to continue with their duties.

The problem concerning doctors' offices is clear. Honourable senators may have read, as I did, about one Toronto doctor whose two partners have fallen victim to SARS. He is trying to look after the practice for all three physicians. I am sure that is putting him under enormous stress.

Federal and provincial governments are working together to identify the economic costs within the health care system, let alone the costs in all other areas. They are trying to come up with some figures to indicate the economic impact within the health care system.

Senator Grafstein: Honourable senators, perhaps the leader can assure us that the government will take a fresh look at this system. The economic pressure increases hourly and daily. If that front line breaks, society will suffer. It lies in our collective interest and in the public good to ensure that that front line of workers does not break. The best way to do that is to send an economic message that help is on its way.

Senator Carstairs: I thank the honourable senator for his question. I assure him that I will take that message directly to the Minister of Health.

[Translation]

DELAYED ANSWER TO ORAL QUESTION

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table a delayed response to an oral question raised in the Senate by Senator

Oliver on April 29, 2003, concerning new immigration selection rules, retroactive assessment criteria and class action lawsuits.

CITIZENSHIP AND IMMIGRATION

NEW IMMIGRATION SELECTION RULES—RETROACTIVE ASSESSMENT CRITERIA—CLASS ACTION LAWSUITS

(Response to question raised by Hon. Donald H. Oliver on April 29, 2003.)

The Government made a legitimate policy choice to begin applying the new criteria to all cases even those who applied under the *Immigration Act*, as of April 1, 2003.

The skilled worker transitional provisions were designated to strike a balance between fairness to applicants and the interests of Canada. Persons who applied before January 1, 2002 and were not processed before April 1, 2003 are subject to the relaxed selection criteria: a 70 point score. Only persons who applied after January 1, 2002 and whose applications were not processed prior to the implementation of the *Immigration and Refugee Protection Act (IRPA)* on June 28, 2002 have to satisfy the 75 point score, as required by the new legislation. Furthermore, cases that had not reached the preliminary processing stage, known as paper screening, were eligible to have their case closed with a full refund of the processing fee. Out of approximately 60,000 candidates eligible for the refund, only 413 have availed themselves of this option.

The Senator makes reference to a recent Federal Court decision involving 102 applicants for permanent residence, which directed that they be assessed under the selection criteria contained in the previous immigration legislation.

The Federal Court in *Dragan* clearly decided that the transitional regulations were valid. This means that CIC officials will continue to apply the regulations as written.

The selection criteria apply to all applicants. While in absolute numbers, we might receive more applications to come to Canada from one geographic area over another everyone is assessed on the same basis. I would like to add further that this government is committed to immigration on a non-discriminatory basis. I must emphasize again: New applicants, whether they are from Asia or from anywhere else in the world, are subject to the same requirements.

• (1440)

[English]

ORDERS OF THE DAY

CRIMINAL CODE

BILL TO AMEND—MESSAGE FROM COMMONS—REFERRED TO COMMITTEE

The Senate proceeded to consideration of the Message from the House of Commons concerning Bill C-10B, to amend the Criminal Code (cruelty to animals).

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I move, seconded by the Honourable Senator Robichaud:

That the Senate concur in the amendment made by the House of Commons to its amendment 4 to the Bill C-10B, An Act to amend the Criminal Code (cruelty to animals);

That the Senate do not insist on its amendments 2 and 3 to which the House of Commons has disagreed; and

That a Message be sent to the House of Commons to acquaint that House accordingly.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Senator Carstairs: Honourable senators, we are again discussing Bill C-10B, to amend the Criminal Code in respect to animal cruelty. As honourable senators recall, we had this bill before us a few weeks ago. After several months of comprehensive study, the Standing Senate Committee on Legal and Constitutional Affairs reported the bill back with five suggested amendments, which this chamber adopted. The other place considered these amendments, and today we are debating the motion passed in the other place in respect to the amendments which we so moved.

Let me remind senators what the amendments were. One amendment was a small technical change to a word in the French text, and I think that one clearly received approval on the other side. The other four, however, were more substantive changes.

One amended the definition of "animal" to remove the phrase "or any other animal that has the capacity to feel pain." Another added the defences of legal justification, excuse —

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I rise on a point of order. So that everyone is singing from the same hymn book, the item before us is the message. We are debating the message. Senator Carstairs rose to speak on the message, and she moved an amendment before we began to debate the message. I take it she is now speaking to her amendment as opposed to the message. If that is the case, it would be helpful for us to have a copy of the amendment, just to understand where we are.

The Hon. the Speaker: Did you wish to intervene on the point of order, Senator Cools?

Hon. Anne C. Cools: I was about to raise a similar point of order myself because it seems to me that any motion to take an action should be subsequent to some discussion on the message itself, I would have thought. I also heard Senator Carstairs to say, not that we were debating the message; I heard her say that we were debating the motion adopted in the House of Commons. I do not understand how we can be debating a House of Commons motion. To the extent that we will get copies of what is actually before us, that might clarify my dilemma. I distinctly heard Senator Carstairs say that we were debating a House of Commons motion.

The Hon. the Speaker: To be helpful, honourable senators, yesterday the Chair read the message and distributed the text of the message. Senator Carstairs has today moved a motion, which will be distributed to the honourable senators' desks. It is in the process of being distributed now. It is a motion to concur in the amendment, essentially. I will not repeat the rest of the motion.

I do not see anything out of order, honourable senators, in proceeding this way.

Senator Carstairs: Honourable senators, thank you. Let me continue.

One amendment, and I am talking now about what we had suggested to the other place, amended the definition of "animal" to remove the phrase "or any other animal that has the capacity to feel pain." Another added the defences of legal justification, excuse or colour of right. A third one replaced the offence of "kills without lawful excuse" with the offence of "causes unnecessary death." The last amendment added a defence for traditional Aboriginal practices.

The message from the other place states they agreed to three of these amendments in principle, made a change to one of them and disagreed with two. The small housekeeping amendment, a technical change to the French text of the proposed section 182.6, was agreed to. The other place also accepted the amendment to the definition of "animal." Although the government's initial priority when it drafted the bill was flexibility in the definition, the other place has come to accept the concerns discussed by honourable senators about the lack of clarity and certainty in the original definition. If science can one day demonstrate that animals that are not vertebrates have the capacity to feel, then Parliament can at that time consider making a change to the legislation to bring those animals under the law.

The other place also approved, in principle, the amendment that would include the defences of legal justification, excuse and colour of right. Honourable senators recall that many groups testified before our committee that they were concerned that some defences might be lost by these amendments. The government had maintained consistently that the defences listed in subsection 429(2) of the Criminal Code were not lost, even if the words were not reproduced in the new sections. Our committee heard from officials and other witnesses, including experienced criminal lawyers, that subsection 8(3) of the code,

which preserves all common law defences, includes the specific defences mentioned in 429(2), namely legal justification, excuse and colour of right.

The view of the government was that this amendment was not legally necessary. Still, the Senate committee decided there was merit to being absolutely clear that Canadians should not have to fear our law reforms and should not have to have this question hanging over their heads. The amendment adopted by honourable senators stated, "No person shall be convicted of an offence under this part where he proves that he acted with legal justification or excuse or with colour of right."

Our intent, I think, was simple and clear. It was to explicitly reassure Canadians that the defences in subsection 429(2) were still available. The amendment was a reassurance that the current law was not supposed to change. It did not provide something new, and it did not change the law. It confirmed the existing law.

The other place has accepted the merit of our intention to make clear and certain laws but did not agree with the wording of the amendment. It was pointed out that the wording contained a reverse onus in the words "where he proves." This kind of reverse onus of proof means that the accused has to prove that the defence applies. Normally, the prosecution must prove beyond a reasonable doubt that a defence raised by the accused does not apply. Clearly, the reverse onus is a disadvantage to the accused. In this post-Charter era, it may also be unconstitutional because it violates the presumption of innocence. Most amendments made to the Criminal Code after the Charter do not have this kind of reverse onus. The other place was, I believe, correct to point out that we can do better than to introduce a provision that risks violating the Charter.

The second reason the other place gave for wanting to change this amendment was that it was not clear whether the case law decided under subsection 429(2) would continue to apply.

• (1450)

I believe it was the intention of this chamber that the old case law would be applicable. There is already case law under subsection 429(2) that interprets the meaning and scope of those defences, and also important case law that suggests that the reverse onus contained in subsection 429(2) is unconstitutional, and rules it of no force or effect.

By writing the defences into the new part without referencing subsection 429 (2), there was no way to be sure that the courts would understand that the old interpretation of the defences was meant to apply.

The other place amended the amendment to deal with both of these points. The amendment now reads:

Section 182.5 — For greater certainty, the defences set out in subsection 429 (2) apply, to the extent that they are relevant, in respect of proceedings for an offence under this Part.

In my view, honourable senators, this wording makes clear that the case law decided under subsection 429(2) should continue to apply because it is the defences in subsection 429(2) that are preserved. This case law includes cases that strike down the reverse onus in that provision, so that this wording takes care of that problem as well.

These are improvements to the amendment, and I urge honourable senators to concur in this change.

The other place disagreed with two amendments. The first was an amendment that deleted the defence of "killing without lawful excuse" and added "causing unnecessary death" to the offence of causing unnecessary pain or suffering to an animal.

In the Senate committee, concern was expressed that this amendment was confusing, and that it was not clear how "unnecessary" could fit with the killing offence. "Unnecessary" is a concept that goes with pain and suffering, according to the case law, but not with killing. The other place took the view that this amendment brought greater uncertainty into the law.

The phrase "without lawful excuse" in the offence of killing is well known in the criminal law and well understood in the case law. Even the Supreme Court has said that it is a flexible term that must be looked at in the context of the offence. It is broad enough to cover commonly accepted reasons for killing animals, such as hunting and fishing, and euthanasia by veterinarians. There is no evidence that the courts have trouble understanding this term, or that its scope is too narrow.

The other place rejected this amendment because it takes two separate offences and makes them one. It has been Parliament's intention for a long time that there be two separate offences, one of causing unnecessary pain to an animal, and one of killing an animal without lawful excuse. The blameworthy character of each type of conduct is different. It is one thing to kill someone else's pet humanely but without good reason, and it is something different to torture an animal. These are two separate things and the law should recognize them as different. The other place rejected this amendment for these reasons, and I urge honourable senators to concur.

The other place did not accept the amendment that would have added a defence for Aboriginal persons who carry out traditional hunting, trapping or fishing practices in any area where Aboriginal peoples have harvesting rights under section 35 of the Constitution Act, 1982, where the pain caused is no more than is reasonably necessary in the carrying out of those traditional practices.

This amendment is not legally necessary. Aboriginal persons are not at risk of prosecution or conviction for any activities that are humane and cause no more pain than necessary. The law is sensitive to the specific issues of Aboriginal practice. The court can already take Aboriginal practices into account in determining whether an offence has been committed. In addition, Aboriginal persons have all of the protection of section 35 of the Constitution Act.

The other side maintains also that this clause is very confusing. Many honourable senators expressed confusion and concern about the wording of this amendment, both in the committee and at the report stage. In the committee, although five members voted for this amendment, two opposed and five abstained.

Concerns were expressed that this amendment might impose a reverse onus on Aboriginal people. Others were concerned that it would be overbroad because it could allow an Aboriginal person from one region to go to any area where other Aboriginal peoples have rights, and claim the defence. Aboriginal persons from one group could claim the benefit of some traditional practice of another group, which could lead to complicated competing claims to the same resources.

There were also concerns about the difficulties police might have in figuring out what traditional practices are, and what Aboriginal rights are, when they are investigating a charge. Senators were concerned as to whether or not this provision would be enforceable.

These were the concerns of honourable senators, not just concerns in the other place. We put in this provision, and yet we were not fully certain what its effect would be. The other place has rejected this amendment based on many of our concerns. I would urge honourable senators to concur in this decision also.

In conclusion, the other place has informed us that they have agreed to two of our amendments unchanged: the French language correction and the definition of "animal," and modified a third one, dealing with the defences of subsection 429(2).

The other place disagreed with two amendments, the one that deals with unnecessary death and the one that gives a specific defence to Aboriginal persons. It has disagreed with these two amendments because they are confusing, and their legal effect is not clear. It is not good practice to pass amendments that are confusing and that lead to further uncertainty.

Therefore, I strongly urge honourable senators to concur in the motion passed in the other place, but I also believe, honourable senators, that the message we received from the other place should be referred to the Standing Senate Committee on Legal and Constitutional Affairs, because that is the committee which studied this bill originally.

REFERRED TO COMMITTEE

Hon. Sharon Carstairs (Leader of the Government): Therefore, with leave of the Senate and notwithstanding rule 58(1)(f), I move:

That the question now before the Senate be referred to the Standing Senate Committee on Legal and Constitutional Affairs; and

That the committee report no later than Thursday, June 12, 2003.

The Hon. the Speaker: Is leave granted honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: It seems, Senator Carstairs, that some are rising for questions. Would you take questions before we deal with the motion?

Hon. Gerry St. Germain: My question is to the Leader of the Government in the Senate. On the question of humane practices, and I am speaking to the last amendment that dealt with Aboriginal persons, I believe that that is one of the greatest areas of concern. Now that you have moved that the bill is to return to committee, I would like the record to show that that is one of the greatest areas of concern by virtue of certain practices in which Aboriginal peoples participate. That interpretation can be so broad and so different from one end of this country to another.

Having said that, I believe, if the bill returns to the committee, I will accept the recommendation of the Leader of the Government.

[Translation]

Hon. Gérald-A. Beaudoin: The minister referred to several amendments. On several occasions, she mentioned the Canadian Charter of Rights and Freedoms.

I must say that the Senate Standing Committee on Legal and Constitutional Affairs has been studying this issue for many months now. If we refer it back to the committee without debate here in the Senate, I agree that we cannot give an opinion on it today, given that the amendments are all interrelated and involve the Canadian Charter of Rights and Freedoms.

I would agree with the idea of referring the whole question to the Standing Committee on Legal and Constitutional Affairs, but I would like to know if that is the purpose of the motion.

[English]

Senator Carstairs: Honourable senators, we received a message from the House of Commons. As an institution, we can accept that message or we can reject that message. I moved a motion that we accept that message. Further, I moved a motion that that message of the House of Commons go to our committee. Thus, in committee, honourable senators would be able to examine the recommendations that are made by the other place, and that have been sent to us by way of a message.

• (1500)

Hon. Pierre Claude Nolin: To be clear, is the honourable senator asking us to say yes to the first motion or the second motion?

Senator Carstairs: I am asking honourable senators, at this point, to say yes to my second motion, which is to refer the message of the House of Commons to the Standing Senate Committee on Legal and Constitutional Affairs.

Senator Nolin: If we say yes to the second motion, that will close the debate today. As we are in question mode, I will ask another question.

The government is suggesting, in its wisdom, that we should accept the amendment proposed by the other place. Has the honourable senator reviewed section 429(2) of the Criminal Code to which that brilliant amendment in the House of Commons is referring? That section of the colour of right provision reads as follows:

No person shall be convicted of an offence under sections 430 to 446 where he proves that he acted with legal justification or excuse and with colour of right.

Does the minister not think that if the members of the other place would have tried to do a complete, thorough and rigorous job, they would have also amended section 429(2) to include the new sections 182.1 to 182.6? Why would that not be done? That is a good reason to send the bill back to committee — for committee members to do a good and rigorous job.

Senator Carstairs: The honourable senator has answered his own question. Another question that would have to be asked is: Was that section of the Criminal Code actually opened in the bill? My understanding is that it may not have been opened in the bill. Therefore, one is unable to amend a section that has not been opened.

Senator Nolin: That is exactly why we decided to resuscitate a new section that would use the exact wording of 429. Honourable senators are getting used to the depth of the work that we do in the Standing Senate Committee on Legal and Constitutional Affairs.

We will agree, at least on our side, to the recommendation of the minister to send the bill back to committee to review the message from the House of Commons because that message is totally incomplete. They have neither read nor discussed thoroughly what we have discussed when we were dealing with our Aboriginal colleagues' rights. Definitely, the members of the House of Commons have not done their job on amendment number 3 in regard to the colour of right defence.

Hon. Charlie Watt: Honourable senators, I should like to adjourn the debate under my name.

Some Hon. Senators: No, no.

The Hon. the Speaker: We have a motion to adjourn. The motion is not debatable.

It was moved by the Honourable Senator Watt, seconded by the Honourable Senator Adams, that further debate be adjourned. Is it your pleasure, honourable senators, to adopt the motion?

Senator Carstairs: On a point of order, this is a reference to a committee, honourable senators.

Senator Forrestall: We have rules!

Senator Kinsella: There is no debate.

Senator Carstairs: My understanding is that it is not a debatable motion.

Senator Forrestall: What are you debating it for?

The Hon. the Speaker: The motion to adjourn is not debatable, but the motion to refer is like any other motion. Let me take a quick look at the rules.

The motion to adjourn is in order, but I am not sure whether it is a debatable motion. Honourable senators are such sticklers and I want to be correct here. We will pause while I check the rules.

Honourable senators, the events or the sequence of events are that Senator Carstairs has spoken to her motion and has proposed a further motion for which leave is required to be put. I asked for leave and leave was granted. The motion was put.

Senator Carstairs' motion is that the question now before the Senate be referred to the Standing Senate Committee on Legal and Constitutional Affairs and that the committee report no later than Thursday, June 12, 2003.

A motion to refer a matter to committee is a debatable motion. It is also possible to move the adjournment of the motion. The questions between various senators and Senator Carstairs were, in my view, on her speech concerning her motion. We now have before us a motion to adjourn the debate moved by the Honourable Senator Watt, which I am obliged to put, and that is not a debatable motion.

It is moved by the Honourable Senator Watt, seconded by the Honourable Senator Adams, that further debate be adjourned to the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker: Those in favour of the motion to adjourn the debate will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: Those opposed will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the "nays" have it.

And two honourable senators having risen:

The Hon. the Speaker: Honourable senators, it is a one-hour bell. However, as it is a government motion, the whips may propose a different time.

Hon. Bill Rompkey: Honourable senators, I believe we have an agreement for a 30-minute bell.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon Senators: Agreed.

The Hon. the Speaker: Call in the senators.

• (1530)

Motion negated on the following division:

**YEAS
THE HONOURABLE SENATORS**

Adams	Kelleher
Angus	Keon
Atkins	Kinsella
Bolduc	Lawson
Buchanan	Lynch-Staunton
Cochrane	Murray
Comeau	Oliver
Cools	Prud'homme
Corbin	Rivest
Doodly	Rossiter
Eyton	Sibbeston
Forrestall	St. Germain
Gill	Stratton
Grafstein	Tkachuk
Gustafson	Watt—31
Joyal	

**NAYS
THE HONOURABLE SENATORS**

Austin	Kolber
Bacon	Kroft
Banks	Léger
Beaudoin	Losier-Cool
Callbeck	Maheu
Carstairs	Mahovlich
Chalifoux	Merchant
Chaput	Milne
Christensen	Moore
Cook	Morin
Cordy	Nolin
Day	Pearson
De Bané	Pépin
Fairbairn	Phalen
Finnerty	Poy
Fraser	Ringuette
Furey	Robichaud
Gauthier	Roche
Graham	Rompkey
Hervieux-Payette	Smith
Jaffer	Stollery—42

**ABSTENTIONS
THE HONOURABLE SENATORS**

Nil

The Hon. the Speaker: Is the house ready for the question?

Some Hon. Senators: Question!

• (1540)

Senator Watt: Honourable senators, this is a great day — or the beginning of a bad day, whichever way you look at it. Let me try to describe, as clearly as possible, why I felt that it was necessary for me to make the motion that I made.

Over the months, it has not been easy dealing with this particular bill in the Standing Senate Committee on Legal and Constitutional Affairs. There was a great deal of educating that I, together with Senator Adams and other Aboriginal groups, had to do in terms of who we are, what we are and what we do. How do we consider ourselves in this country? How should we take part and participate? Certainly not by allowing ourselves to be eroded away from this land of ours.

It is important that every race in this country respect each of the others. At times, I wonder whether we have a clear conscience, and whether we clearly understand what we are doing when we are dealing with an important piece of legislation such as this. At times, we seem to forget the fact that there is a human side to all of this. It seems that that human side is no longer of importance to all of us, when, in fact, it should be the most important issue in the forefront of our minds.

At times, I also feel that the economic side is not taken into account. We, like you, have to live. We have a right to life under the Constitution, the same as you do. That right to life also applies to the Aboriginal people.

Let me talk a little bit about economics. Aboriginal people feel strongly that their economy is affected by a piece of legislation such as the one that is before us. As Aboriginal people, we live in isolated communities in the Far North and on reserves in remote communities. We live very differently from the way in which those in the south live. A lot of that difference has to do with the fact that we do not have the same economic opportunities. Therefore, it is important to us to speak out when we feel that our right to life is being attacked by the system.

I do not believe this debate will end today; neither will it end tomorrow. The fact is that we must continue to address this issue, because justice must be somewhere. Justice has to apply to all, equally. Sometimes I feel that that is not the case. At times, we feel very small compared with where you stand. At times, we feel shy to raise issues, important issues, because we are not sure whether we will be understood.

I am not here to try to persuade you all, but if I can succeed in a small way to persuade you to have a little bit of understanding about where we are coming from, we would certainly appreciate that.

Let me get back to Bill C-10B, and why it is an important piece of legislation. It is important to all of us to have fair and just legislation — not only on this one day, to deal with it and bring it back to this assembly where we can determine whether we should send it back again to the House of Commons, amending this Bill C-10B. No, one day is not enough. One day is not satisfactory, because with this bill we are dealing not only with the question of Aboriginal rights but also with the rights of other people, such as farmers, hunters and those who have religious beliefs. Such groups conduct their business in certain ways, and they utilize the animal in certain ways, according to their religious beliefs.

Therefore, honourable senators, we need more than one day for this debate. Two days might not even be enough. However, I am prepared to settle for two days and have this matter dealt with thoroughly and expeditiously by those on the Standing Senate Committee on Legal and Constitutional Affairs.

Some Hon. Senators: Hear, hear.

Hon. Anne C. Cools: Honourable senators, I would like to follow on the remarks of Senator Watt by saying that I had been a great believer that this message should be referred back to the committee. I had sincerely believed that the subject-matter should be "recommitted," as they say.

Honourable senators, I am a little disturbed and troubled that Senator Watt's wish was not granted. His action was a surprise to me, but I sincerely believe that he has a profound point when he says that one or two days in a committee on such a major initiative is insufficient. It seems to me that sending the message to the committee should be a sufficient and fulsome act, not a pro forma one.

Honourable senators, I am somewhat concerned because what we are dealing with here, from what I can see, is a superseding motion. I do not have that second motion in front of me, but it seems to be a superseding motion rather than an amendment to the main motion. It is a very interesting phenomenon, I think, that we have a reference to a committee, but the main motion has already stated a position. The main motion is an attempt to have the Senate concur in the amendment made by the House of Commons to amendment numbered 4 to Bill C-10B and to have the Senate not insist on its amendments numbered 2 and 3, to which the House of Commons has disagreed, and obviously, to have the Senate send a message to the House of Commons to acquaint that house accordingly.

• (1550)

We have an interesting phenomenon in that the message is being referred to the committee for its judgment and for its opinion, but within a very restricted and rigid set of boundaries based on the fact that the Senate should not insist on its amendments numbered 2 and 3. I may have a small problem with that because it is not in the nature of an instruction to a committee but it is certainly in the nature of a preconceived conclusion.

Perhaps it truly does not matter. Who knows, at the end of the day? Honourable senators, I do want the committee, in its consideration of the amendments, to look at an important matter that has just arisen with little time for preparation. I cannot help but observe that the new wording proposed for amendment numbered 4 is the wording that was previously considered by the committee. An official from the Department of Justice, Mr. Richard Mosley, suggested the wording. On Friday, June 6, the motion in respect of this message was adopted in the House of Commons.

Honourable senators, we must be mindful that the person speaking to and leading the debate in the other place was not the Minister of Justice but, rather, Mr. Paul Macklin, Parliamentary Secretary, and the motion was moved by Mr. Don Boudria,

Leader of the Government in the House of Commons. Amendments have been made, and we simply have not had the opportunity to talk to the minister about them. The minister has been noticeably absent. Mr. Mosley suggested the amendments. I have problems with that, honourable senators.

I would like to return to the day when amendments, the substance of amendments and the wording of amendments, were discussed and debated with ministers, rather than with staff. I have nothing against the staff; they are wonderful, intelligent and brilliant people. Wording that the committee has already considered has reappeared, wording that the committee chose not to adopt because it deemed, in its wisdom, that its own wording was superior. Yet, this wording has come back to us. This is a good lesson in process, but that is not my real point.

My real point is the following: The House continues, in their vernacular, to send the bill back or to send the bill over. Messages are the means of communication between the two Houses. What is before this house now is only a message, and not the bill. The bill is no longer open. There is simply the message from the House of Commons to the Senate.

What I want the Senate committee to consider is that the House of Commons has sent, in the form of a message, an entirely new amendment and not an amendment to our message or to our proposal. I was always under the impression that one chamber or the other could accept, reject or amend, but that it could not send completely new propositions. I may be wrong about that; there may be some precedent.

I would like to put the words of the message on the record so that they might resonate in the minds of honourable senators, to help them understand why I have concerns. Paragraph 4 of the message from the House of Commons states:

Agrees with the principle set out in amendment numbered 4, namely, the desire to reassure Canadians that no defences are lost, but, because the wording of the amendment would codify a reverse onus by requiring an accused person to prove his or her innocence on a balance of probabilities, would propose the following amendment:

Amendment numbered 4 be amended to read as follows:

Page 4, clause 2: Replace lines 22 to 24 with the following:

"182.5 For greater certainty, the defences set out in subsection 429(2) apply, to the extent that they are relevant, in respect of proceedings for an offence under this Part."

This is not so much an amendment to the work of this place but, rather, a brand new clause that is being suggested to this bill. The Commons message states that they "would propose the following:" and given that the message was sent to the Senate, then they must be proposing it to the Senate. Thus, a dual procedural process is being used in this place.

It may seem quite arcane to some, but it is important because the entire message, honourable senators, is simply the means of communication between the Houses. The chambers communicate by message just as the House communicates with the Governor General or with Her Majesty, by address. These are ancient words that we use.

The message states that the House, "would propose the following amendment." Honourable senators, Bill C-10B, Bill C-10A, Bill C-15B, and the original Bill C-15 have presented unusual procedural practices. I think of the word "bizarre" when I try to describe the procedure of movement of this bill through the two Houses. I remain concerned that the Bills C-10A and C-10B have not had three readings in either House — the Senate or the House of Commons. I have been saying that since last October.

Honourable senators, I draw your attention to the wording of the message: That the House of Commons would propose an amendment to the Senate in respect of amendment numbered 4. It would be of interest for the Standing Senate Committee on Legal and Constitutional Affairs to determine whether the amendment has been made in the House of Commons or whether the amendment is being made in the Senate. It is an interesting proposition.

One of the great problems today, in our system of governance, is that the law of Parliament is suffering from understudy and under use. This may not seem an important point to many but the institutional relationship that should pertain between the two Houses of Parliament, and between the two Houses and Her Majesty, and their relationship to ministers, is of supreme importance.

Honourable senators, I believe that Senator Watt wished to have a few more days to study the bill in committee. The reference date to return the order is June 12. My position on this bill is well known and well documented. The intention of the Senate committee, in making its amendments, was to protect Canadians from potential vexatious, malicious or mischievous prosecutions, as was suggested by the numerous witnesses — agriculturists, farmers, butchers, hunters, Aborigines, et cetera — who presented before the committee.

• (1600)

Since Bill C-10B represents such a sea change in the law and a total restructuring not only of the law but even of the Criminal Code to accommodate a new species of being, I think that we must approach some of these issues in what I would describe as, in the old classic words, fear, trembling and in awe.

The committee was concerned about the protection of Canadians, native peoples, the researchers in the scientific community, the husbandry practices of some individuals, and so on, from having their work become the subject of prosecution because, I believe, the committee wanted to see a balance. Yes, very few of us would tolerate cruelty to animals, but when we speak of cruelty to animals, we forget that there are a host of people in this country who view hunting as cruelty to animals, and who view ordinary, old, traditional, common law hunting rights that way.

Honourable senators, I know that Senator Watt and Senator Adams have always raised the historical hunting rights of the Aboriginal people. I want to tell honourable senators that hunting is an ancient right of most people. If one looks back into the old literature, one will find all manner of references of the right of human beings to enjoy the bounty of nature by fishing, hunting and so on.

The committee, in carrying out its work — and the case that comes to mind is *R v. Menard* — in its wisdom, tried to bring out the balance and the proper relationship between human beings and animals. I believe the committee was making its amendments in that vein.

I wish the committee well, and I thank honourable senators for their attention. I especially thank our Aboriginal senators, Senator Watt and Senator Adams. Not wanting to be overly positive, these two gentlemen feel deeply and passionately about this particular issue. They have been able to touch me and cause me to look at some of these issues because Aboriginal issues are not something that I have studied a great deal and know a lot about. I thank them and I thank all honourable senators. My hope is that the committee will do a good job of reviewing this message as a real study and not just as a pro forma or a lip service.

Hon. Jeremiah S. Grafstein: Honourable senators, I have not participated in the committee on this subject matter. I have listened carefully to what Senator Watt has said. Having just been apprised of the nature of the amendment, I felt it was appropriate to give more adequate time for all of us to consider it.

The normal tradition of this house has been to give a senator, in this case a senator whose concerns are first and foremost with Aboriginal rights, an opportunity for further consideration and reflection and to bring back those concerns to this chamber so we might opine on them. We have not been given that opportunity. I suggest that on a fast reading of this bill and the report from the other place, they do not touch on the parameters of this bill. I think all senators who are prepared to move this matter forward should understand that we are touching on Aboriginal rights at their deepest and most profound sense as they apply to the traditional Aboriginal lifestyle, which is protected under the Constitution. It also impinges directly on freedom of worship in terms of traditional faith practices in dealing with their way of life without fear of prosecution.

I am not satisfied, on first glance, that either the Aboriginal rights are safeguarded or traditional faith practices are safeguarded. Therefore, the onus is not upon the practitioner but is upon the state to deal with these issues. We are dealing with fundamental issues of minority rights, which I thought was the paramount rationale for this chamber. Another day or two in the lifelong role of any Parliament is not that important, but it is important to ensure that, as a chamber of second sober thought, we look at these issues carefully and satisfy ourselves, beyond a peradventure of doubt, that those who wish to exercise their traditional Aboriginal practices, their Aboriginal rights, safeguarded by the Constitution, as well as the freedom of worship that includes the right to deal with their culinary matters

in a particular way, should be safeguarded. If they are not, and if the minister cannot satisfy us beyond all peradventure of doubt that there is no question of a vexatious proceeding, or no question of any impingement on these rights, I believe all of us in this chamber have a serious problem.

I commend Senator Watt for bringing this matter to our attention, which has allowed me to look at it only briefly. However, I can assure him that in the next day or so I will give it much deeper thought. I hope all honourable senators who have urged this matter forward to committee will allow the committee adequate time to consider these issues yet again.

I agree with Senator Cools: The parliamentary practices here are beyond description. I also believe we are here as a chamber of sober second thought, to ensure that parliamentary practices are carefully and properly protected.

I will be looking at this matter, and I am unhappy that Senator Watt's plea for an extra day or two to allow all of us to consider it more fully in the chamber has not been allowed. So be it. This is the will of the chamber and I respect the will of the chamber, and I respect the will of the government. However, having said that, I must also respect our own role as individual senators to ensure that the rights of these groups are properly exempted from any concern or any fear that their rights will somehow, in some way, be impinged. I look forward to a careful and quiet deliberation in committee to ensure that those protections are safeguarded.

[Translation]

Senator Nolin: Honourable senators, I would like to reassure Senator Watt that he should not interpret my vote as a vote against the intent of the amendment.

I think that members of the Standing Committee on Legal and Constitutional Affairs argued *ad nauseam* about the content for several months. They did not only argue about the rights of Aboriginal Canadians, but also about those of other persons for whom hunting or killing certain animals is a legitimate and perfectly reasonable activity.

I voted knowing that the committee would be meeting tomorrow afternoon and Thursday morning. I believe that the two meetings will be enough to examine the message from the House of Commons, which concerns three of the five amendments that were proposed. I also have concerns about the fourth amendment and I have indicated my reasons to Senator Carstairs.

Once again, I think that the two committee meetings will be enough to study the question, review it if necessary, and reaffirm the amendments that we proposed here in the Senate.

[English]

Senator St. Germain: Honourable senators, I rose along with Senator Watt and asked for a standing vote not to be obstructionist. It is a question of this Aboriginal issue. I think the Leader of the Government in the Senate and the leadership on the government side understand that this is a sensitive area; an

area that has been spoken of on numerous occasions. The thing that caused my consternation was the fact that the Leader of the Government recommended that we send the question back to committee.

The committee did excellent work. I do not belong to that committee officially, but many senators who are not members of that committee attended these hearings on a consistent basis. That was because of the excellent work done by the leadership, the chairman, Senator Furey, and the deputy chairman, and all the members of the committee who worked diligently and sincerely in trying to deal with the issues before the committee that were reflected in the bill. Senator Baker did an excellent job as well.

• (1610)

We have been debating the motion, debating the message and debating the amendment. I certainly do not profess to be a procedural expert, but the fact remains that the government is thinking of accepting the amendments as they came from the House of Commons. As so adeptly pointed out by Senator Nolin, section 429(2) does not cover these particular sections, yet they make reference to them in regard to amendments to this piece of legislation.

Something is adrift in the system. I would urge the government leader in the Senate, who I believe is sincere, as the government is, to consider that we have a litany of legislation before us now, that deals with Aboriginal issues. We have Bill C-6, Bill C-7, and Bill C-19 is coming.

Our poor native people are being inundated by legislation. I think that some of them believe that the confusion/illusion is about to be imposed on them as opposed to dealing with their needs and issues in a sincere manner. Perhaps we can get through this in the next couple of days.

Honourable senators, I do not believe this legislation is so important that we have to ram it through in spite of the fact that the government would like to see it through. I do not hear any great hue and cry about this legislation. I hear a hue and cry about SARS and BSE, but not about cruelty to animals. I have not been reading such in our media.

Obviously, there is a need in the eyes of the government. Let us try to fulfill this need but not run rough shod over our Aboriginal people in the onslaught. I urge honourable senators to understand that Senator Watt and I are not being obstructionist, but are asking for time to think this thing through and do what is right for our Aboriginal people and other peoples that might be affected by this legislation.

The Hon. the Speaker: The next speaker who has the floor will be Senator Sibbeston. If Senator Cools has a question to Senator St. Germain, it should be put now.

Senator Cools: Honourable senators, the motion says June 12. Do we have any idea of how much committee time that really entails? Will it be one hour committee sittings or two hours? I was wondering if Senator St. Germain knew that.

The motion is silent on that aspect. The motion says that the committee shall report by June 12. Senator Watt's concerns may be greater than we think. Perhaps, before we have a final vote, we should ascertain how much committee time will be spent on studying the message.

It might be useful, perhaps, sometime in the future, that we specify some amount of time that should be spent on these matters lest we discover that June 12 may mean a one-hour committee meeting.

Senator St. Germain: I cannot give the honourable senator that answer, but I would certainly be of the belief, from the nodding and the body language in this chamber, that if the committee is to meet, it may take five or 10 hours.

Whatever it takes, with the makeup of that particular committee and the leadership, the proper time will be allocated.

Hon. George J. Furey: Honourable senators, in response to the question by Senator Cools, we have two sitting days for the committee between now and Thursday. Wednesday afternoon is a regular sitting time, as is Thursday morning.

As I am sure that the honourable senator is aware, it is not unusual for committees that are engrossed in work to go beyond the normally scheduled hours. I feel certain, given the amount of time we have already spent on this particular bill and the narrowness of the issues from the other place, that we can report to this chamber by Thursday.

Senator Cools: I have no doubt that the committee will report to this chamber by Thursday. My doubts are not in that direction. My concern, and perhaps I should have raised it earlier —

Some Hon. Senators: Order.

The Hon. the Speaker: Senator Cools I have a number of senators who wish to speak on this point.

Senator Carstairs: She has spoken already.

The Hon. the Speaker: Are you putting a question, Senator Cools?

Senator Cools: Yes, I am putting a question to Senator Furey.

The Hon. the Speaker: I will hear the question, and then Senator Furey will answer.

Senator Cools: I was wondering if Senator Furey will indicate roughly the number of hours he expects the committee to sit tomorrow and Thursday.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I rise on a point of order. No senator has a right in debate to question a speaker who has not spoken in debate whether he or she be the chairman or deputy chairman.

The Hon. the Speaker: I regarded Senator Furey's comments as an intervention. I will let Senator Furey answer the question by

Senator Cools. I will then see Senator Sibbeston and then Senator Chalifoux.

Senator Furey: Honourable senators, as Senator Cools is well aware, we sit at a certain time on Wednesdays. It is not unusual to take extra time when we need it on Wednesdays. We sit at a specific time on Thursdays. Unfortunately, we are restricted on Thursdays as to when we can sit because once the chamber begins to sit, we must end committee meetings.

Senator Cools is well aware of that. How do you get a number of hours out of that? I cannot give it to you. I do know this, if it takes extra time on Wednesday, we will give it extra time.

Hon. Nick G. Sibbeston: Honourable senators, I appreciate that the motion is a technical one to refer the issue to committee and have it report in a number of days. It will give me a chance to say a few words about the Criminal Code and also the government's response that we have before us.

Criminal law is made to apply equally to everyone in our country, and laws are made usually from a southern and urban setting. I have always found interesting, coming from a rural area in the North and with my experience dealing with Aboriginal people, how difficult it is to deal with laws that are made in the South. As a lawyer, practising criminal law in particular, I found it really challenging because the consequences for offences in the Criminal Code are usually quite serious.

I have found that, in the North, people frequently commit offences under the influence of alcohol. We try to use the Criminal Code to deal with those situations, when really it is a social situation. People, for the most part, are not criminals. They get intoxicated and do things.

Consequently, the effect of southern laws is that we do have a lot of people in jail, particularly Aboriginal people, who are not really criminals in the same sense as they are in the south. They are people who have social problems. The phenomenon is Aboriginal people moving from the bush to little communities and to larger centres. When people have been living in the bush or out on the tundra up in the Arctic, it is a big life change to go from that way of life to a more organized town life. Various social problems arise. Criminal laws are often used to apply and deal with situations like that, and that has not worked very well.

• (1620)

I see the amendment that has been made here as an attempt to recognize the unique situation of Aboriginal people, particularly when it comes to hunting. I am so disappointed with the minister's reaction to a clause that seems reasonable and clear to me. He disagrees with the amendment "because it is unclear and creates confusion about whether the intent is to create a different test for liability of aboriginal persons..." It is not confusing. It is very clear. The intention is to have a provision in the Criminal Code that applies specifically to Aboriginal people. There is nothing unclear about that. I am disappointed that the minister would say it is unclear and would create confusion.

The other aspect is that he says "there is no clarity as to what 'traditional practices' are..." As usual, let the courts decide. The fact that it may not be clear to a minister sitting in the other House does not mean that it could not ultimately be dealt with by the courts in a local situation, and the court could define it. I am disappointed.

I hope that the matter gets dealt with and is sent back to the House of Commons in its present form. I would agree with my colleagues that it is a serious matter. For the very first time, we are trying to do something in the Criminal Code which would apply to a rural setting in our country, which is so different from the south here, and we are stopped and criticized, and said to be confusing, and so forth. I hope we will have sufficient time to deal with this matter and that we will take whatever time is required to deal with it. For that reason, I hope that the Senate will give it sufficient time and good consideration. We are on the right course, and we must stick to our guns.

Hon. Thelma J. Chalifoux: Honourable senators, I would like to thank and applaud Senator Watt for bringing this matter forward, because it has created an excellent scenario for debate in this chamber. I told Senator Watt that I voted against his motion because I think it is vitally important that we get it before the Legal and Constitutional Affairs Committee. I have great faith in that committee, knowing the senators who sit on it and the depth of investigation they put into everything they study. We need a really good recommendation from the Legal Committee so that it is a stronger resolution when we refer it back to the other place. That is very important.

I am voting in favour of the motion to have the matter turned over to the Standing Senate Committee on Legal and Constitutional Affairs. I do not think it will take six months, or maybe even six days. As Senator Sibbeston has said, it is very clear. As I said in my remarks the other day, our people who live in the northern parts of the provinces are between 50 and 75 years behind those of us who live in the south. That aspect must be taken into consideration.

I come from those areas where the traditional ways are practised. If the government is not sure what traditional practices are, they can visit those communities. We will show them traditional practices, and how the people live.

It is important that this amendment is put forward again in order to save our people in the North from starving and from having a very desolate way of life, because whether we like it or not, industry is there, but our people are 90 per cent unemployed. The amendment is very important, and I know that a recommendation from our Legal Committee will give it a lot of strength.

Hon. Tommy Banks: Honourable senators, I too take great comfort from the fact that the Legal Committee, chaired by Senator Furey, will examine this issue. Part of that comfort comes from the fact that I know the committee has already spent a great deal of time on this question, and what the implications are of this bill upon the Aboriginal peoples. They will be looking at how we should respond to the message from the Commons.

I hope that all senators will bear in mind a few things, and Senator Sibbeston has referred to this: The response of the government seems to be saying that the amendment that was put forward would cause confusion because it would suggest that there is a sort of exemption going on there. That is precisely the point. The rhetorical question that I have finally addressed is: Are we saying that Aboriginal peoples, in regards to this question, have rights that the rest of us do not have? The answer is: Yes, they do. I repeat: Yes, they do.

Senator St. Germain: Yes, they do.

Senator Banks: The explanation that I think I heard the leader give today is that the government believes that the bill, with the amendment they propose, makes sure that no unnecessary pain would be caused to an animal. Let me say that there is unnecessary pain caused by guys who look like me, but that is not the question. That is not what the proposed amendment said. The amendment did not say that they could cause unnecessary pain. The purpose of the amendment was to say that the way in which Aboriginal peoples have been killing animals and fish, and dealing with them since long before any of us got here is all right. That was the point of the amendment. There is nothing the least bit confusing about it. Do they have rights that the rest of us do not have? Yes. There is nothing confusing in the amendment about that. I hope we will all remember this when the report comes back from the committee.

Hon. George Baker: Honourable senators, I congratulate senators for their input on this bill. It is remarkable, fellow senators, to see this kind of spirit and this kind of input and this kind of result. I spent 28 and one half years in the other place as an MP, and frankly, honourable senators, although I served as a backbencher, parliamentary secretary and cabinet minister, I did not have the effect that perhaps some of you think I had on changing any legislation at all, even a word.

Honourable senators, I will be brief. We have here one section of a bill that was of great concern to many organizations in Canada. The Canadian Jewish Congress opposed this bill. Why? Why would the Canadian Jewish Congress come to the Senate with its lawyers — famous lawyers, great lawyers — but also presenting a brief to the Senate jointly with the Islamic community? They were also opposed to the bill, and other organizations opposed the bill.

I do not know, honourable senators, if we have satisfied their concerns in the four amendments that we suggested. One of the amendments we suggested perhaps addresses their concerns partially, and that is colour of right. However, you will notice that the other place has now changed that.

We heard from Clayton Ruby — and most people know of Clayton Ruby — on one side of the question. We heard from another famous lawyer in Canada, just as famous as Clayton Ruby, a chap by the name of Michael Code. Some of you are interested in the *Askov* argument, which is about the courts taking too long, especially in our northern communities, to have cases heard. That was Michael Code's case. He was the lawyer for Mr. Askov.

We took the definition of colour of right from section 429 of the Criminal Code, the actual words, and placed them in the bill.

• (1630)

What did the other place do? They turned around and said that we could not do that. It wanted clause 429(2) with its wording in the bill, and then include the words "to the extent that they are relevant." In other words, you do not take the defence of colour of right; that is, if somebody honestly believed in a set of facts, which, if true, would provide them with a defence for their actions. However, the other place says the defence under clause 429(2) shall apply "to the extent that they are relevant."

Honourable senators, we heard from some of the best lawyers in this country who said the reason colour of right should not apply in the case of animals is that animals are not property. When you insert the words, "to the extent that they are relevant" someone could argue it is not relevant because animals are not property. Have we satisfied the demands and the honest concerns of the Canadian Jewish Congress, the Islamic community, and all of the other organizations that appeared with their lawyers? We need to examine that.

The other question concerns Senators Watt, Adams, Sibbeston and several others in this place. That is a serious matter because the Criminal Code will now have a section that deals with the killing of seals. We already have a law on the killing of seals, under the Fisheries Act called the marine mammals regulation. It exempts in certain cases, in certain actions, what are called beneficiaries, in Canada. Beneficiaries are defined as those people under the James Bay Agreement, and the Nunavut agreement, and I forget the precise long wording — Senator Nolin knows it quite well — of those agreements. It says, those are beneficiaries, and, therefore, certain sections of those regulations are exempt beneficiaries. In other words they cannot be charged. Well, if you are an aunt, if you were charged, it would be a summary conviction.

This is a hybrid bill. What is that? You can be charged by indictment. What does that mean? Jail. It means huge fines without any protection. It has been argued that we have prosecutorial discretion. The Nova Scotia Royal Commission on the Donald Marshall affair, which was headed by Justice Hickman, former Chief Justice of the Newfoundland court, spelled it out, as other commissions have done since then, that a line must be drawn between the investigative portion of a case, and the prosecuting portion of the case. In other words, a Crown prosecutor should never get into the area of laying charges, because that is a safeguard in our system in law, according to those Royal Commissions and according to our courts today. Yet Department of Justice appeared before our committee saying that there will be safeguards at the prosecutorial stage.

Of course, when Senator Adams and Senator Watt asked what that meant, the official said it means when you get to court, or after you get there.

Honourable senators, we have to address the problem. There are two ways that somebody can be charged for killing a seal, let us say, under the Fisheries Act or under the Criminal Code. The animal rights groups are concerned about who will lay the charge; that they will swear the information in front of the justice of the

peace under the Criminal Code of Canada, which will have no protection at all called a beneficiary, no protection at all that we presently have under the regulations for marine mammals.

What choice is left to the northern governments? We have the former premier sitting here. What choice do they have? Honourable senators, I suppose they can say, as provincial administrations have done under the Firearms Act, "We will not prosecute." What does that mean? That means that only those persons under provincial control, handling prosecutions, namely, their own police officers or wildlife officers, can be involved in prosecution, unless they shut down the courtroom, which is owned by the province. Who then is not covered? The RCMP is not covered. Guess where they are? They are up north; they are all in the rural areas. What do we have left? We have the gun control laws that will not be prosecuted by provincial police forces in the cities, but they will be prosecuted in the north where the RCMP is.

What choice do these northern governments have? The police force laying the charges is, of course, under federal jurisdiction. We have a serious problem, and I do not believe that the Department of Justice understands.

Perhaps senators will not get everything that they want under this bill. Certainly, we can try to get the most we can. I can say, after serving 28.5 years in the House of Commons, that I really admire this institution. It is all that I thought it was and even more, because when you put your foot down, something happens.

Some Hon. Senators: Hear, hear!

The Hon. the Speaker: Do you have a question, Senator Grafstein?

Senator Grafstein: Honourable senators, I listened carefully to what Senator Baker said. He touched on, but really did not direct his attention to the constitutional question. He was a member of this committee, as Senator Furey was. Was the issue of the constitutionality of these provisions questioned? What, in fact, was the response from the witnesses about the constitutionality as it applies to restricting minority rights, or interfering with the freedom of worship?

Senator Baker: The response given was that everybody will be treated the same, regardless of where they live, regardless of what animal they are hunting, or killing, or harming, and that the government will not accept any exceptions. They also said, at the beginning, that no changes would be accepted to the bill. That has changed a bit. Perhaps we can go that extra step and prove to them that these changes that the Senate has asked for are completely legitimate, are not frivolous or an invention of somebody's mind, but are in response to the representations brought before the Senate committee.

Hon. Marcel Prud'homme: Honourable senators, I wish that I was 10 years younger and had the kind of energy that I had in the other chamber, in order to give you my view, clearly, on what this country is all about. Senator Baker is healthier. He put it very clearly to me. It is not a question of not having faith in Senator Furey, who I know is an excellent chair, and his members; it is a

question of knowing what the Senate is all about. I could name prominent senators who go around the world. I see Senator Fraser, who is on the international executive of the IPU, which is a great honour, where she replaced former Senator Finestone, who is still an activist. I will mention Senator Nolin who is involved with NATO and Senator Rompkey and Senator Hervieux-Payette as well.

• (1640)

There are so many senators who go around the world. They praise Canada. Everybody says: What a beautiful country; is there a more diverse country than Canada? How do you come to respect people as diverse as the people from the North to the people of the South?

I sat with Senator Baker in the other chamber. It was always a delight listening to him, as honourable senators can imagine, not because he is a good speaker but because he always went directly to the point. This is a diverse country. I have seen members from the northern part of our country crushed by the system. I do not have to name them. They did not fit. They spoke a language that is the majority language here, English. They did not even speak French, but that is okay. They were my First Nations, but they did not fit. They were crushed by the system. They felt that they were not understood. The more they explained, the less they were understood. Senator Baker could put names to what I am saying in regard to some of our colleagues in the other chamber.

I will even point a finger here. I see Senator Adams. Senator Adams is not a master of the English language, but he feels so strongly about matters that he listens with great care to people who express views that he would like to express as clearly because English is not his first language. Honourable senators must understand that. I am not talking now about French-English; I am talking about the First Nations.

It is especially our new colleagues to whom I wish to speak and explain what the Senate is all about. One may read on the walls of the office of the Speaker that order excludes haste and precipitation. We must not be afraid once in awhile, when we feel strongly or when we see that some of our colleagues feel strongly on an issue, to say, "Too bad, so sad, return it to the chamber of the House of Commons."

I feel that I am a new senator talking to new senators. We will have to take our distance from what we think is party discipline. I am for discipline. When I could not cope, you know what I did? I sat alone in this corner. The number of independent senators is now getting larger. However, for 50 years I was a member of the Liberal Party. I could not fit in with the discipline, so I removed myself from that.

Here in the Senate, we should take the time necessary. I have confidence that Senator Furey's Legal Committee and the members of that committee will study this matter attentively, even though it will be for a short time. I would not be surprised if they come back with a report saying: "We have studied what was sent back to us, that which was rejected by the House of Commons, and we stand with what we decided."

Honourable senators, we conducted an extensive study of the bill and made amendments. We sent them to the House of Commons, which accepted some of them. The House sent a message back to us saying that they did not agree with some of the amendments. Now the leader of the Senate has moved that the question be sent to the committee, which will look into it. I have faith in the committee members.

Honourable senators, prepare yourselves. Read about the issue. Ask your colleagues who feel strongly about it. Privately, they will tell you things that they may not say standing in this chamber. I believe that the Senate is at its best in these kinds of debates, where one may see what Canada, in its diversity, is all about. We have passed laws that have affected the North without even having set foot in the North. We do not even know where it is. We have not seen these people.

I see Senator Merchant. I regret to say that the situation for First Nations in Saskatchewan is horrible. I was there. I went to speak in Western Canada over 300 times. I went to Thompson, Manitoba. I saw the situation there. When I was in Winnipeg, I walked the streets from my hotel to a radio station. People told me, "Don't you dare walk there." It is the main street, the longest street. I said why? They said it is dangerous. I regret to say that. It is the truth. That is where Senator Carstairs invited me for lunch. All the time I was saying that she should come to the Senate" she had already been called by the Prime Minister. The night when I arrived in Ottawa she was in the Senate, so I was very happy.

Honourable senators, we should have sensitivity and patience. We are coming to the end of a session where it is starting to look like the National Assembly in Quebec. There, legislators will be bulldozed next week with a series of bills that members have not even read. Senator Baker and I saw that in the House of Commons. Senator Stollery and I saw that in the House of Commons. Senator Smith, Senator Hervieux-Payette, Senator De Bané, Senator Robichaud, Senator Joyal, Senator Maheu, Senator Pépin, Senator Corbin and Senator Roche have all sat in the House of Commons. We know what happened there all the time with these complicated bills. We just waited. We went to our seats. I regret to say this publicly, but we would ask what the vote was on and would be told such and such. We would ask, "Where is the whip?" That was the end of the discussion.

I know that no honourable senator wants to sit in the kind of a Senate where it is an exact replica of the House of Commons. If it is to be an exact replica of what the House of Commons is all about, I do not see why we should have a Senate. The Senate is here to do exactly what took place today.

I hope that Senators Nolin and Beaudoin, members of the Legal Committee under the able chairmanship of Senator Furey, will study these amendments, as short as the study may be. I hope that they will not feel — and I know them to be strong people — as if they are under a guillotine. I hope they will not come back and say, "We will bow to the House of Commons," if they feel that what the House of Commons is asking us to do is the wrong thing to do.

Senator Watt: Will the honourable senator accept a question?

Senator Prud'homme: Of course.

Senator Watt: I know that the honourable senator has travelled around the North when he was a member of the House of Commons. He has also visited the reserves. I am not saying that he has seen everything he needs to see; it is pretty hard to see everything in one day or even two days. However, knowing the life of the people in the North, we are very much into hunting and fishing activities on a daily basis. That is our livelihood. We do not have anything else. We do not have any alternatives in terms of bringing the bread and butter to our families' tables. That is exactly what I believe is at stake, not immediately, but down the road, depending on how this legislation will be implemented.

I also know that Newfoundland is probably one of the closest provinces to Aboriginal people in terms of livelihood. They fish; they hunt; that is their livelihood. That is the only way to bring bread and butter to their families. Hopefully, Aboriginal people understand that.

• (1650)

As a former member of the House of Commons, you have seen various pieces of legislation go through that place that have impacted Aboriginal people, but not in the way that this bill would. Do you think that governments should ignore the impact of legislation on the lives of people? Do you think the government has the right to legislate to the detriment of the ability of Aboriginal people to feed their families? Do you think the government has the right to force such legislation on people who have a right to life under the Constitution the same as everyone else?

Senator Prud'homme: There are many bills on the Order Paper. I hope that Senator Robichaud will not call them all because I have to keep some stamina for a major event at 6:30 tonight, which cannot be missed, involving 10 senators.

I will illustrate my answer with an example. I have followed the debate on gun control. However, I do not want to debate that subject. I have listened to people from the North try to convince people from Toronto and Montreal of the consequences of storing your gun separate from your bullets. When you have to face one of the unbelievably beautiful animals in the North, you must defend yourself quickly or be eaten alive. They tried to explain gently and simply, as Senator Adams would. However, no one understood, and they would not accept the explanation.

That is not my kind of Canada. It is not the kind of Canada we talk about to the rest of the world. Tomorrow, I will read to you a poem entitled *O Canada* on the occasion of the departure of the ambassador from Morocco. That poem will make you understand what the rest of the world sees in this country of ours that we do not see ourselves. Sometimes, foreigners better understand what Canada is all about, and sometimes, foreigners better understand how the Senate can extend protection to the people of Canada.

Senator Watt most likely knew how I would answer his question before he asked it. There is, as always, a lack of sensitivity.

I did not raise a question of privilege on a matter that arose last week in the Banking Committee. In that committee, we are studying an immense bill. We were presented with the final report of the committee for discussion, a huge document, in English only. I thank the Liberal senator who said that was unacceptable, whereupon the matter was adjourned until Thursday. It was not done in bad faith; it was done through a lack of sensitivity and understanding.

I have endless examples like that from the other chamber. I am happy to be here and I hope that such things as happened so often in the other chamber will not happen here.

POINT OF ORDER

Hon. John Lynch-Staunton (Leader of the Opposition): We have two motions before us. If we are to send this message to committee, it should not be burdened by the first motion, which, as Senator Cools has pointed out, commits us to concur in the amendment. As Senator Chalifoux has pointed out, we are looking for a recommendation from the committee. Therefore, we should not burden the committee with a decision that I do not think any of us want to take.

Therefore, I would urge the mover of this motion, or the Deputy Leader of the Government in her place, to withdraw the first motion of concurrence and let the message go to committee, with instructions only to report by whatever date we have agreed to.

The Hon. the Speaker: The motion before us is to refer the question, which has not been dealt with by the Senate, to committee.

Hon. Pierre Claude Nolin: No, it is to refer the message.

The Hon. the Speaker: The question envisages what was in the message.

Senator Nolin: That is exactly the question I asked the Leader of the Government. Her motion was to refer the message to the committee and to instruct the committee to report by Thursday afternoon.

Senator Lynch-Staunton: That is her second motion. When she opened her remarks on the message itself, she asked that the Senate concur in the amendment, and I do not think that that motion should accompany the message to the committee.

Hon. Anne C. Cools: I previously raised this point. Currently, the two motions are wedded, so you can say that the second motion is at least guided by the first. Since the first motion is not that pertinent at this moment, because I gather the decision to "recommit" the bill was taken after the first one, perhaps the wisest thing for the time being would be to let the second motion proceed on its own. Perhaps Senator Carstairs could simply withdraw the first motion for a day or two.

The Hon. the Speaker: I think I can resolve this, honourable senators. My understanding of the proceeding before us is that we received a message from the House of Commons, which was distributed. It was moved that we would return to it the following day, which we did, the "following day" being today.

Senator Carstairs moved a motion, which is currently being redistributed, that the Senate concur in the amendment made by the House of Commons to its amendment numbered 4 to Bill C-10B, et cetera. In the course of speaking to this point, she decided that it was wise to refer her motion to accept the message to a committee, and she so moved.

Therefore, I do not believe we have a problem of having two motions before us. We have only one motion, that being to move the question — and the only thing that can be referred to by the words "the question" is Senator Carstairs' motion to accept the recommendation in the message — and that is what the motion seeks to refer to committee.

Hon. Gérald-A. Beaudoin: Senator Nolin and I clearly said that the question now before the Senate be referred to the Senate committee, which is what I now see before us. I asked whether it was the whole question, and the Leader of the Government in the Senate replied "yes." In my opinion, the whole question that we have discussed today is sent back to the Standing Senate Committee on Legal and Constitutional Affairs. This does not mean that we agree with the first or the last part of the question. The whole question is referred to the Standing Senate Committee on Legal and Constitutional Affairs. In my opinion, everything is before the committee if we say "yes."

[Translation]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I was just sending a message to the Leader of the Government for clarification with respect to the answer to the Honourable Senator Nolin's questions, that is what, exactly, the committee should be considering. I believe we have two interpretations from the Honourable Senator Beaudoin. The Honourable Senator Nolin believes that we should not have to deal with the first motion but with the second.

• (1700)

Does Senator Beaudoin see it the same way?

Senator Beaudoin: I am relying on a legal text. It is before the Senate.

[English]

That the question now before the Senate be referred.

The Hon. the Speaker: This is a point of order. I will go through my list, listen to all senators and rule. I do not want debate back and forth because that will take us a long time and it is not in accordance with our rules. I will hear from Senator Nolin.

[Translation]

Senator Nolin: The question before us is quite simple. Senator Carstairs has moved a motion and has spoken on this motion. At the end of her speech, she added a second motion about referring the question to committee. The word "question" is not used correctly in it.

The proper wording would be to refer the message that was sent to us by the House of Commons to the Committee on Legal and Constitutional Affairs for consideration. I asked Senator Carstairs to confirm whether her main proposal was the second motion and she said yes.

I will read from the text before me:

...with leave of the Senate and notwithstanding rule 58(1)(f), I move: That the question now before the Senate be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

It is the word "question" that gives me a problem. In fact, it is the message received from the House of Commons that is being referred to committee. It is Senator Carstairs' motion and not something else. It is certainly not a message coloured by the first motion she moved, because she would not have replied to me as she did.

It is very clear and it is as Senator Robichaud understands it. The text before us is not an exact reflection of the motion as it was given orally by Senator Carstairs. This motion should be redrafted.

[English]

Senator Cools: Honourable senators, I tend to think that there has arisen a considerable amount of confusion. This is why I always ask for copies of these motions, so that we can have before us precisely what it is we are being asked to consider.

I think Senator Nolin is correct. The issue before us as listed on the Orders of the Day is consideration of the message from the House of Commons concerning Bill C-10B, to amend the Criminal Code (cruelty to animals). When we began, I said that we should begin consideration before we leapt to a conclusion. Senator Carstairs' first motion, about concurring with the House of Commons and not the Senate, is a conclusion that she is asking the Senate to reach, hopefully as a concluding part of considering the message. During her speech, under the consideration of the message and on her first motion, she asked for leave and said:

With leave of the Senate and notwithstanding rule 58(1)(f), I move:

That the question now before the Senate be referred to the Standing Senate Committee on Legal and Constitutional Affairs; and

That the committee report no later than Thursday, June 12, 2003.

There is definitely confusion, if not in Senator Carstairs' mind at least now in everyone else's mind, and there is a need for clarification. When I first raised the issue, I understood from the responses that there were two separate motions and that the first one was not influencing the second one. Now, reading as it does based on what the Speaker has just said, it looks as if the message and Senator Carstairs' first motion and second motion are all being referred to the committee.

It was my understanding from the latter part of the debate, which was a different understanding from the initial part of the debate, that what is being referred to the committee is the message. I raised the question very early on as to how we can refer the message to the committee for study of the message when the first part of the motion is telling the committee the conclusion it should reach.

The real nub of the matter is the meaning in Senator Carstairs' second motion, the one for which she requested leave of the Senate, notwithstanding rule 58(1)(f). Is the question now before the Senate her first motion, or is the question the consideration of the message? There must be some clarification because it is confusing.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I hope that I understand because I have been en route from other places.

In order to send anything to the committee, there had to be a motion. The motion that I moved was that we not insist on our amendments. I then asked for that motion to be referred to committee.

Obviously, in committee, the decision will have to be made as to whether we agree with my motion, disagree, half agree or half disagree. However, there is no attempt in my motion to limit the discussions on the message of the House of Commons that take place in that committee.

However, in order to get the message to the committee, I had to move a motion. The motion says that we not insist on our amendments. That motion will go to committee; the committee decides whether that is what it will report back or whether it will report something else back.

Senator Prud'homme: A point of order.

The Hon. the Speaker: There are a lot of senators rising, and it is getting late, honourable senators. The last senator I will hear from is Senator Lynch-Staunton.

Senator Lynch-Staunton: I would like to see this message go to the Standing Senate Committee on Legal and Constitutional Affairs for report no later than Thursday, June 12, unburdened by any conclusion that the first motion has in it.

The first motion says that we concur in the amendment. If we vote the two motions and send the message with those two motions, the Standing Senate Committee on Legal and Constitutional Affairs will be faced with a conclusion of the Senate as a whole. It will be like an instruction to the committee.

Whether that is our feeling or not, if we want a recommendation unburdened by a conclusion, implied or direct, then I would suggest strongly to the Leader of the Government to withdraw her first motion, which does not stop her from moving the second one — again if need be — because it simply says that the question be sent to the committee. You do not need the first motion for the second one to be effective.

Senator Nolin: That was the answer to my question.

The Hon. the Speaker: Because a question has been put to the Leader of the Government in the Senate, I will hear her if she wants to be heard. Otherwise, I will rule.

Senator Carstairs: In terms of Senator Lynch-Staunton's comment, there has to be a message.

Senator Lynch-Staunton: There is one.

Senator Carstairs: A motion has been put forward, but we are not voting on the first motion.

Senator Lynch-Staunton: Yes we are. It is before us.

Senator Carstairs: No. I moved a motion. We are now referring that motion to the committee. We are not voting on the motion; we are voting on the referral to the committee.

Senator Lynch-Staunton: No, we are not. We have to vote on two motions.

Senator Carstairs: I moved a motion on the floor, and then I moved the motion to a committee. We are, in fact, voting on whether to refer the motion to the committee.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Refer what to committee? Your first motion?

Senator Carstairs: Yes, the motion has been referred, but the vote is not —

• (1710)

Senator Kinsella: We want the message referred.

Senator Carstairs: Honourable senators, —

The Hon. the Speaker: Honourable senators, I have enough material to make a ruling, but I require about 10 minutes to prepare it. I would ask that the Speaker *pro tempore* take the Chair.

Point of order, Senator Prud'homme?

Senator Prud'homme: Honourable Senator Carstairs, could we not ask —

The Hon. the Speaker: We are debating the same issues that I have already heard. Do you have a new point of order, Senator Cools?

Senator Cools: Yes. Honourable senators, I was trying to say that two different motions were raised —

The Hon. the Speaker: Honourable senators, that pertains to the same point of order. The procedures of the house are such that we bring an end to these matters and I will make the decision when I have heard enough. I have heard all that I need for me to make a ruling, and I would like 10 minutes to write it. I would ask that the Speaker *pro tempore* take the Chair.

[Translation]

The Hon. the Speaker *pro tempore*: Honourable senators, is leave granted to suspend the sitting of the Senate for ten minutes in the absence of the Speaker?

Senator Robichaud: Honourable senators, is the Chair proposing that the sitting be suspended for ten minutes until the Honourable the Speaker can return?

The Hon. the Speaker *pro tempore*: Is leave granted to suspend the sitting?

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore*: The bells will ring at 5:25 p.m.

The sitting of the Senate was suspended.

• (1720)

[English]

The sitting of the Senate was resumed.

SPEAKER'S RULING

The Hon. the Speaker: Honourable senators, I have had an opportunity to consider the point of order that was raised by Senator Lynch-Staunton and commented on by a number of senators, and I thank all senators for their interventions.

I will start by quoting from our rule 62(1) which states:

Except as provided elsewhere in these rules, the following motions are debatable:

(i) for the reference of a question other than a bill to a standing or special committee;

As I have perhaps commented already, but will repeat, we have before us under our proceedings, Government Business, Bills, No. 1: "Consideration of the Message from the House of Commons concerning Bill C-10B, to amend the Criminal Code (cruelty to animals)," to which Senator Carstairs spoke. At the beginning of her comments, she moved a motion that has been distributed to honourable senators, in effect asking the Senate to concur in the amendments set out in the message from the other place.

• (1730)

In the course of her comments, without having brought this matter to a vote, she made a second motion which is the subject matter of the point of order. Relevant to that is rule 62(1)(i), which I read, to the effect that a question before the Senate can be referred to a committee and is debatable.

The issue raised by Senator Lynch-Staunton was that the matter could not be dealt with, as I understood it, until the first question had been resolved. In the course of comments there was concern expressed about the way in which the first motion was proposed from the government side to the effect that the message be concurred in.

The issue is this: Is there anything not in order with the motion proposed by Senator Carstairs, with leave, that the question first proposed, which I believe includes all matters referred to in the motion she made first, be referred to the Standing Senate Committee on Legal and Constitutional Affairs?

I have discussed this matter and looked at the precedents and rules, and I can find no impediment, no problem with the Senate voting on the motion currently before the Senate. I so rule.

Hon. John Lynch-Staunton (Leader of the Opposition): Which one? There were two motions.

Some Hon. Senators: Question!

The Hon. the Speaker: I am now at the point of the question. I do not want to repeat my ruling because I will make things more confused than they need to be. I have ruled that the question before us is in order, and there is only one question before us — not two. That is, to refer the question to committee, which is the identification of the motion that was put by Senator Carstairs in starting the debate. Are we ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker: It was moved by the Honourable Senator Carstairs, seconded by the Honourable Senator Robichaud, with leave of the Senate and notwithstanding rule 58(1)(f), that the question now before the Senate be referred to the Senate Committee on Legal and Constitutional Affairs, and that the committee report no later than Thursday, June 12, 2003.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Motion agreed to, on division.

Senator Lynch-Staunton: What happened to Senator Carstairs's first motion?

The Hon. the Speaker: The first motion has now been referred to the Standing Senate Committee on Legal and Constitutional Affairs.

Senator Lynch-Staunton: Could I ask why we were not allowed to vote on that first motion?

[English]

The Hon. the Speaker: We could have voted, but it was not moved.

[Translation]

ENERGY, ENVIRONMENT AND NATURAL RESOURCES

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I ask the honourable senators to authorize the Standing Committee on Energy, the Environment and Natural Resources to meet during the sitting of the Senate. Witnesses are waiting to appear before it.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

[English]

Senator Prud'homme: Senator Robichaud, do you remember what happened in the past? Do you have other requests of people sitting? No.

Motion agreed to.

PUBLIC SERVICE MODERNIZATION BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Robichaud, P.C., for the second reading of Bill C-25, to modernize employment and labour relations in the public service and to amend the Financial Administration Act and the Canadian Centre for Management Development Act and to make consequential amendments to other Acts.

The Hon. the Speaker: Honourable senators, I am not sure of the disposition of the resumption of the debate on Bill C-25. Do any honourable senators wish to speak?

[Translation]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, Item No. 2, second reading of Bill C-25, is government business. Only the Leader of the Government or the Deputy Leader may decide to stand this order. I am not prepared to stand this order at this time. An adjournment motion is required to stand this bill until the next sitting of the Senate.

On motion of Senator Ringuette, debate adjourned.

NATIONAL ANTHEM ACT

BILL TO AMEND—SECOND READING— DEBATE SUSPENDED

On the Order:

Resuming debate on the motion of the Honourable Senator Poy, seconded by the Honourable Senator Banks, for the second reading of Bill S-3, to amend the National Anthem Act to include all Canadians.—(Honourable Senator Cools).

Hon. Vivienne Poy: Honourable senators, I would ask Senator Cools when she intends to speak to this matter.

Hon. Anne C. Cools: Very shortly.

Some Hon. Senators: Question!

The Hon. the Speaker: There is no unanimous consent for the matter to stand, Senator Cools. Do you wish to speak now?

Senator Cools: I was under the impression that senators have had a very lengthy and exhaustive debate and that senators are trying to get out of here. That was my understanding. I may be wrong.

Hon. Fernand Robichaud (Deputy Leader of the Government): There is no such understanding, Your Honour.

The Hon. the Speaker: The Deputy Leader of the Government indicated that there was no such understanding. I have no unanimous consent to stand the matter, so I must put it to the chamber: Are we ready for the question, or does an honourable senator wish to speak to the matter?

Senator Cools: I have indicated that I wish to speak, and I am existing within the rules. It seems to me that if any senator wants to alter the rules, they must stand and give an indication as to why the rules should be strayed from. If we look at the number of the debate, I am perfectly in order.

There are other senators who wish to speak to this matter. Senator Sparrow indicated to me that he wishes to speak; Senator Adams indicated to me that he wishes to speak. As far as I am concerned, it is quite in order to stand the matter at this time.

I was under the impression that I have spoken enough. I have spoken three or four times today, and I thought I could give my voice and everyone a rest for today. Tomorrow is a different day.

The Hon. the Speaker: Do you wish to put your question again, senator?

Senator Poy: Yes, I would. It had been —

Senator Cools: It is not debatable.

The Hon. the Speaker: It is not, if there is a motion to adjourn. Are you making a motion to adjourn, Senator Cools?

Senator Cools: I did not think it was necessary. I will make a motion to adjourn. However, it is my understanding that all that was needed here was to stand the order. However, if Your Honour wants a motion to adjourn, I will make such a motion.

The Hon. the Speaker: In order for the order to stand, unanimous consent is required. I do not have that consent. However, the honourable senator is entitled to move the adjournment of the debate. Do you wish to do so?

Senator Cools: You could say that, but there is nothing to adjourn because there has been no speech. The matter has not been spoken to. "Stand" is usually the expression that is used. Further, neither unanimity nor consent is required to stand an order. Stand is just the word to overcome that. A different action would have to be taken, particularly with respect to a motion.

• (1740)

The Hon. the Speaker: Honourable senators, this is a matter that, from time to time, has concerned me. I have a reference for honourable senators, which I believe to be the correct version of our rules and procedures with respect to these matters. I refer to a ruling that I believe to be in effect. The ruling dates to July 10, 1973, by the then-Speaker Muriel McQueen Fergusson and can be found at page 838 of the Senate Hansard for that time. I quote the then-Speaker, in part, on this particular issue:

Honourable senators, I should like to say that I have given considerable time and study to this point of order raised by Senator Flynn. I would refer honourable senators to a ruling made by the then Speaker, the Honourable Senator King, on April 11, 1946, which is reported at page 135 of the *Debates of Senate* of that year. The order was for the resumption of the debate on the motion for the second reading of a bill. The senator who had adjourned the debate said "Stand" when the order was called. One senator expressed his opposition to the adjournment, and the Speaker ruled follows:

Honourable members, the order in question is: "Resuming the adjourned debate on the motion for the second reading of Bill G, an Act to amend the Dairy Industry Act." It will be recalled that yesterday the honourable leader to my left (Hon. Mr. Haig) adjourned the debate. Today he has asked that the order stand. That is tantamount to a motion for the further adjournment of the debate. The matter is now in the hands of the house.

Following that, His Honour, the Speaker called the Contents and Non-Contents, and the vote was taken.

Honourable senators, I fully concur in that decision, and I would be ready to follow that practice and precedent should I be called to make a ruling in similar circumstances.

I find myself in the same position as the then-Speaker Muriel McQueen Fergusson in that if there is not unanimous consent for the matter to stand, it is tantamount to a motion to adjourn. I would think the way to handle that is through a formal motion to adjourn, and then the Senate will dispose of it as it wishes.

Do you wish to move the adjournment, Senator Cools?

Senator Cools: I move the adjournment of the debate.

Senator Prud'homme: Oh, come on.

The Hon. the Speaker: It is moved by the Honourable Senator Cools, seconded by the Honourable Senator Prud'homme, that further debate be adjourned to the next sitting of the Senate.

Senator Prud'homme: Why me?

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: No.

The Hon. the Speaker: Those in favour of the motion to adjourn the debate will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: Those opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the "nays" have it. Resuming debate.

Senator Cools: Honourable senators, I will speak. I must apologize for burdening senators to hear me yet again today.

Honourable senators, I would like to begin by expressing what I would consider to be strong opposition to this bill. Essentially, national anthems are solemn hymns of patriotism that are adopted after years of usage and are supposed to rest unchanged because they have become such a part of the national fabric of our lives.

Senator Poy says that she wishes to change the anthem because the words "in all thy sons command" are somehow or the other oppressive to women or exclusive of women. I do not believe that the national anthem, *O Canada!*, is in any way oppressive or hurtful of women, nor do I think it offends any nationality or any group or any ethnic set of people. I have said before that there are many people in the country who could take exception and say it is not their native land.

Looking at Senator Poy's speech of February 21, 2002, she tells us that she is asking for a little change because in actual fact it is nothing at all. She says these are the original lyrics. I will read exactly from Senator Poy's words. She says, at page 2286 of our Debates:

I agree that the 1908 version of *O Canada!* should never have been changed. According to the original text, which was first brought to my attention by Nancy MacLeod of Toronto, the lyrics of the 1908 version read as follows:

O Canada!
Our home, our native land
True patriot love thou dost in us command.

A few lines later, Senator Poy continues:

As you can see, if we return to the original lyrics of *O Canada!*, our tradition as Canadians, even in 1908, was one of inclusiveness. Ironically, the original version of 1908 was a better reflection of our times than the anthem we sing today.

Honourable senators, I have made it my business to look into his whole question of the original words of 1908, and I do not think we have to repeat the history of Judge Weir's words and his marrying them with Calixa Lavallée's music. I was in touch with the grandson of the Honourable R. Stanley Weir, whose name is Stephen William Weir Simpson. He wrote to me February 27, 2002, saying the following:

Dear Senator Cools:

I'm delighted you're on board opposing the proposed move to alter the words to *O Canada!* in the family's estimation, Parliament has done enough damage already. I attach a copy of Judge Weir's original 1908 version in his own hand. Also, I append his revision of the lyrics in 1921, introduced, I believe in an address to the Canadian Clubs, which we have always sung, certainly in Quebec, and I believe most of Eastern Canada.

Honourable senators, this is different from what we have been hearing, and obviously one or the other is mistaken, maybe both, or maybe both are correct. The copy that Mr. Stephen William Weir Simpson sent me, which he says is a copy of Judge Weir's original 1908 version in his own hand, says the following words.

O Canada!
Our home and native land
True patriot love in all thy sons command —

— and it carries on.

(1750)

Obviously, this is a matter that could be clarified. Some would say it is a very small matter and some would say it is a larger matter. I am hoping that in her speech to close second reading debate perhaps Senator Poy can clarify the origin of those words, since they are the words that are in dispute. If Senator Poy's argument is buttressed by her assertion that those words were his words originally, then I think we should have some clarification because Mr. Stephen William Weir Simpson says something different.

I should like to read another statement from Mr. Stephen William Weir Simpson. This is from a speech that he made at Weir Memorial Park on May 24, 1999. He spoke about his grandfather, Judge R. Stanley Weir, and the loss of his grandfather's two sons, one in World War I and one in World War II. He said the following:

It was only during the blood bath of WW1 that a sense of unity and Canadian nationhood was brutally driven home. For as the Canadian Corps dug in upon Flanders Fields, the song beyond all others that gave meaning to their identity as Canadians was the song with the underlying refrain: "O Canada, we stand on guard for thee." The song thus became endeared to thousands to whom it was formerly but one of many; it received indeed a solemn consecration during those four unspeakable years which could not but make it secure in the affections of all Canadians. From this point on, "O Canada" had earned its place as the only truly national song.

Honourable senators, I just wanted to put that on the record. It is very beautiful and touching, and it is of interest.

In closing, honourable senators, I should like to say that we hear much about radical feminism, and we hear much about the rights of women, and about exclusion and inclusion. I should like to say that we sometimes forget that the majority of men, the patriarchal society, are quite ordinary lads. The majority of them are quite loveable.

One of the reasons that I have problems with radical feminism is its elitist basis, because it forgets that most men are labourers, loggers, miners, welders, truckers, plumbers and fishermen; very few are senators, lawyers or doctors.

Honourable senators, 700 to 1,000 of these men are killed every year in industrial accidents. We had a beautiful moment in this chamber some years ago when Senator MacEachen rose and spoke of growing up on Cape Breton Island, where his father was a miner who went down into the coal mines for, I believe it, was 46 years. I would like to invite honourable senators to consider the possibility that men and women are equally capable of doing good, and equally capable of doing bad, and that, at the time when that particular piece of music was written, the term "in all thy sons command" included everyone. It was meant to apply to all the people of Canada, all the people in all their faces and all their compositions.

Having said that, honourable senators, in a previous speech I had spoken more about the so-called Persons Case of many years ago, and Lord Sankey's remarks. I will leave that for another day because I have been on my feet often today, and I am growing tired.

Honourable senators, I oppose Senator Poy's initiative because it is divisive and, most of all, it is not helpful to national unity, nor is it necessary. For one who is perhaps a little sentimental, conservative or patriotic, I should like to say that Canada is what Canada is.

The interesting thing about Canada is that it began its existence partly as conquered territory and partly as settled territory. A major part of the conquest and the settling of the law — and I can see Senator Nolin looking at me because he knows a significant amount about this subject — was the coming to terms with allegiance, as they used to say, to the British Crown.

Perhaps I am sentimental, but I can tell you, having visited many of the battlefields and the grave sites of Belgium and Europe where so many young men — boys, really — perished, I would like to appeal to senators out of sentiment, if nothing other, to at least maintain a piece of music that connects those boys to us. It is important, I believe, to maintain symbols and anthems, because that is what an anthem is: It connects us to history.

I believe in John McCrae's famous poem, *In Flanders Fields*, he has a beautiful passage about carrying or handing on the torch. I encourage honourable senators to believe that Canadian history is worth preserving. Where there are some warts, they are still part of our history. We come with our history. I say "ours" because I feel very committed to this country; so committed that when I came here as a young immigrant, in 1957, I sincerely believed that I was not changing countries; I believed I was moving from one part of the British Empire to another.

I have tried to inquire as to how often the American national anthem has been changed. I believe the American national anthem was only adopted around 1931. I have not been able to find any instances of where that anthem has been changed.

I would submit to honourable senators that once a piece of music is adopted as a national anthem, it then leaves the possession of the formal adopting process as having left this Parliament, in 1968, as Senator Prud'homme knows, and then it becomes the true property of all Canadians. It is not ours to repossess occasionally, to put our occasional stamp or our occasional opinion on it. A thousand bills could grow up in this chamber to change the national anthem according to anything that anybody else wants.

As a woman who feels strongly about the independence of women; who not only feels strongly, but who tries to live it, I should like to say, honourable senators, that this piece of music, these words, these lyrics embody men fighting for their families. If we know anything about men, it is that everything they ever have they give to their wives and to their children. If anybody knows anything about men dying in conflict, they will learn — and I see that Senator Forrestall is watching — that many of those men died on those battlefields holding on to pocket-sized photographs of their wives and their children, their loved ones.

Honourable senators, I move the adjournment of the debate in the name of Senator Sparrow.

The Hon. the Speaker: Is it your pleasure, honourable senators to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: All those in favour of the motion to adjourn, please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed to the motion, please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the "nays" have it.

Senator Cools: The yeas have it.

The Hon. the Speaker: It is for me to call. I believe the "nays" have it. The motion is lost.

Do you wish to speak, Senator Poy? If Senator Poy speaks, her speech will have the effect of closing the debate on this matter.

Hon. Marcel Prud'homme: I do not wish to speak. I am duty bound as a gentleman, having given my word to Senator Adams a long time ago. He said, "After Senator Cools speaks, if I am not there to adjourn the debate under my name, please do that for me." That was Senator Adams. I am a gentleman to him. I report to the Senate that he asked me to do that favour. Senator Cools has spoken; she cannot speak further.

Senator Poy, the senior member of the Senate, Senator Sparrow, has expressed his desire to speak to this debate. After Senator Sparrow, Senator Adams has expressed a desire to speak.

I am in the hands of the Senate.

The Hon. the Speaker: I advise honourable senators that we have just defeated in the chamber a motion to adjourn. For another motion to adjourn to be put, there must be an intervening event. Were you speaking, Senator Prud'homme?

Senator Prud'homme: Yes.

The Hon. the Speaker: Then that is your speech on the subject.

Honourable senators, it being six o'clock, I must now leave the Chair. We will have to deal with this matter later in the evening.

The sitting of the Senate was suspended until 8 p.m.

• (2000)

[Translation]

The sitting of the Senate was resumed at 8 p.m.

FISHERIES AND OCEANS

COMMITTEE AUTHORIZED TO MEET
DURING SITTING OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move that the Standing Senate Committee on Fisheries and Oceans have power to sit while the Senate is sitting today, and that rule 95(4) be suspended in relation thereto.

English]

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

NATIONAL ANTHEM ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Poy, seconded by the Honourable Senator Banks, for the second reading of Bill S-3, to amend the National Anthem Act to include all Canadians.—(*Honourable Senator Cools*).

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I believe the stage we are at in dealing with this order is that there was a motion by Senator Prud'homme, for Senator Adams, that the matter be adjourned in the name of Senator Adams. Therefore, we have before us the question on that motion to adjourn.

The Hon. the Speaker: The motion to adjourn is not a debatable motion.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Will all those in favour of the motion to adjourn please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will all those opposed to the motion to adjourn please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "nays" have it. The motion is defeated.

We will resume debate on Bill S-3.

Is the house ready for the question?

Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Senator Forrestall: On division.

Motion agreed to and bill read second time, on division.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Poy, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.

THE SENATE

WORLD HEALTH ORGANIZATION—
MOTION REQUESTING GOVERNMENT SUPPORT
FOR TAIWAN'S REQUEST FOR OBSERVER STATUS—
ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Atkins:

That the Senate call on the Government of Canada to support the request of the Government of Taiwan to obtain observer status at the World Health Organization (WHO).—(*Honourable Senator Prud'homme, P.C.*).

Hon. Yves Morin: Honourable senators, this is an issue similar to one we encountered earlier today. It is an important issue that should be solved quickly. At the last sitting of the Senate, Senator Prud'homme took the adjournment in his name, saying that on Monday evening he would be back here with a statement. He wondered whether cabinet members in the other place had voted for or against this motion.

I saw him after that and said that there is no point in delaying this motion further because there is a SARS epidemic in Taiwan and, because the World Health Organization is not in that country, the reporting of cases is not done in an adequate fashion. This affects the people in Taiwan of course, but it also affects Canadians because people do travel from there to here.

• (2010)

I would like this matter to follow the same procedure as Senator Kinsella followed and bring this matter to a head, if possible.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I do not wish to speak to the matter, other than to say that I did speak with Senator Prud'homme today. It was his intention to speak to this item today. He did consult with a number of people. He is not feeling particularly well, and I think that is the reason he is not here now.

I would hope that we would afford him the opportunity to speak tomorrow, if we get to this item, which hopefully we will. I would be reluctant that he not be given the opportunity to speak on this matter. I would like to adjourn debate in the name of Senator Prud'homme.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable Senators, I wish to concur with the Leader of the Government in the Senate and everything she has just said.

Hon. Joseph A. Day: Honourable senators, I understand as well that Senator Prud'homme did intend to speak today. He did indicate last week when he took the adjournment that if he did not speak on Monday, we should proceed with the vote. Therefore, I am hopeful that we will have the opportunity to

deal with this motion tomorrow. It is a matter of some concern. Assuming Senator Prud'homme is here, I wonder if we might have agreement when we do adjourn debate to put it at the top of the list so that it can be dealt with tomorrow.

The Hon. the Speaker: It will stay in its place, honourable senators. My interpretation of the wish of this house is that the matter stands today.

Hon. Senators: Agreed.

Order stands.

The Senate adjourned until Wednesday, June 11, 2003, at 1:30 p.m.

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OFFICIAL REPORT
(HANSARD)

Wednesday, June 11, 2003

—◆—

THE HONOURABLE DAN HAYS
SPEAKER



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(Daily index of proceedings appears at back of this issue).

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THE SENATE

Wednesday, June 11, 2003

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

[translation]

ROYAL ASSENT

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

June 11, 2003

Mr. Speaker,

I have the honour to inform you that the Honourable Ian Binnie, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy of the Governor General, signified royal assent by written declaration to the bills listed in the Schedule to this letter on the 11th day of June, 2003 at 8:25 a.m.

Yours sincerely,

Barbara Uteck
Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

Bills Assented to Wednesday, June 11, 2003

An Act to amend the Canadian Environmental Assessment Act (*Bill C-9, Chapter 9, 2003*).

An Act to amend the Lobbyists Registration Act (*Bill C-15, Chapter 10, 2003*).

A fine land I say
Its values held dear
True honour to cheer
And happy those here
In peace, not in fear

A fine land I say
Where peace is the way
Any difference fostered
And harmony nurtured

A fine land I say
Opportunity fair
And no matter where
For the talents are there

A fine land I say
Good citizens all
Extend a warm welcome
No boasting at all

A fine land I say
Wherever I travelled
Wherever I stayed
From province to province
Friends many were made

You should know as I leave
My heart heavy in ways
I will miss this great country
The rest of my days

So this is not goodbye, dear friends
For if God wills, we'll meet again.

Ottawa, May 30, 2003
Abdelkader Lecheheb
Ambassador of the Kingdom
of Morocco to Canada

SENATORS' STATEMENTS

FOREIGN AFFAIRS

FAREWELL TO HIS EXCELLENCY THE AMBASSADOR OF MOROCCO

Hon. Marcel Prud'homme: Honourable senators,

A fine land I say
The miles stretch away
Beauty unmeasured
Diversity treasured

Honourable senators, this poem was read at the farewell dinner hosted by the Honourable Denis Paradis, Minister, and the Honourable Gar Knutsen.

This evening, between 5 p.m. and 7 p.m., in the Francophonie room, all of the honourable senators are invited to say farewell to His Excellency the Ambassador of Morocco, on the occasion of his departure for Japan. His Excellency has served his country well and is very fond of Canada; he did not hesitate to recite his poem last night at the farewell dinner.

The Honourable Senator Molgat, on his official visit to Morocco with Honourable Senators Bolduc, De Bané, Poulin and myself, asked me to establish this association with Argentina, Brazil, Russia and Morocco.

[English]

The Speakers travelled around the world and made commitments, and when they came back they asked that we create bilateral associations. This is what happened with Speaker Molgat when he asked me to create the Argentina, Brazil, Russia and Morocco associations.

Please come for a few minutes tonight, between five and seven, to the La Francophonie Room, to say goodbye to the ambassador. We will see you there.

• (1340)

[Translation]

THE HONOURABLE RAYMOND C. SETLAKWE, C.M.

CONGRATULATIONS ON RECEIVING HONORARY DOCTORAL LAW DEGREE

Hon. Laurier L. LaPierre: Honourable senators, at Convocation on June 7, 2003, Senator Setlakwe's alma mater, Bishop's University, granted him the degree of Doctor of Civil Law *honoris causa*.

[English]

My friend Dr. Setlakwe graduated from Bishop's University in 1949.

[Translation]

In the citation given with the honorary doctorate, the rector of the university grasped the essential of this great man's life when he said:

[English]

...epitomizes the democratic ideal of citizenship.

At the same time, he reminded the audience of students, notables, professors and friends of the university that the senator's first act of political courage was:

...to battle the Bishop's administration of the late 1940s in order to create a Young Liberals Club in an era of Union Nationale power. He argued then that the university had a duty to allow greater freedom of expression and to foster debate about the political matters of the day.

I have no need to add, honourable senators, but —

[Translation]

As usual, he won his case.

This is a man devoted to his family, his community, Thetford Mines, his employees, and the causes he has chosen to serve: the Thetford Mines Hospital Foundation, Bishop's University, the Université de Sherbrooke —

[English]

— and the Research Fund of the Montreal Heart Institute.

[Senator Prud'homme]

[Translation]

He has also been a member of the Order of Canada since 1996.

[English]

However, this has cost him no money.

He was a born a Liberal, like Sir Wilfrid Laurier, and he has served the cause of liberalism without reserve, like Sir Wilfrid Laurier, since then. He has known and helped every Liberal Prime Minister of Canada since World War II. Loyalty to the people of Canada, to the Liberal Party and to the leader of the party is paramount for Dr. Setlakwe. Often I am aware, sitting so close to him, that he is quite distressed, in these dysfunctional times, at the fact that the Liberal Party is so much and so unnecessarily divided. I share his views.

Setlakwe is a poet, or he knows every poet that has passed among the humans of this planet — perhaps some have even come from other planets — and he quotes them frequently.

When I spoke at Bishop's University recently, Ms. Setlakwe and he were there. Standing in the courtyard, he pointed to a roof from where he would watch the arrival of the love of his life and, no doubt, like an Armenian, he would open the window and softly sing love poems to her as she practically froze to death waiting for him.

I am happy to be sitting next to him. I am sorry that I will not be here next week to pay homage to him, as I have to be in Europe. This is my homage to him. I am sorry he is leaving, for he has enriched my life and my passage here. I will never forget him.

I wish you well, Dr. Setlakwe.

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS—PRESS CONFERENCE ON MARITIME HELICOPTER PROJECT

Hon. J. Michael Forrestall: Honourable senators, I take no pleasure in this statement. I wish we had been in a position, as I indicated yesterday, to interview appropriate departmental officials here in the Committee of the Whole of the Senate of Canada. In reference to the now-infamous press conference held on the statement of operational requirements and the requirements specifications for the Maritime Helicopter Project for Sea King replacement, if we have time, I would like a written response to some of my concerns.

Last week, the distinguished Chief of the Defence Staff, General Ray Henault, discussed his involvement with the statement of operational requirements for the Maritime Helicopter Project during this damage-control press conference at National Defence Headquarters. General Henault said, at that damage-control conference, that he was:

...here at the Headquarters then as the Deputy Chief of the Defence Staff, before that was the Assistant Chief of the Air Staff and worked through the original SOR, but also the updated SOR.

[Translation]

In point of fact, shortly after the NSA project was cancelled in 1993, work began on drafting an updated SOR for a Sea King replacement.

This maritime helicopter SOR is dated March 13, 1995, and was approved by the Chief of the Air Staff in May 1995, several months before General Henault went to Winnipeg as Chief of Staff for Operations in July 1995 where he served until June 1996. No maritime helicopter SOR work was conducted during the period that General Henault was attached to the staff of the Chief of the Air Staff.

General Henault was then posted to NDHQ until September of 1997. In September of 1997, he was appointed Assistant Chief of the Air Staff. Work on the current revisions of the maritime helicopter SOR did not commence until January of 1998, after the Canada search helicopter contract award. General Henault was promoted to Lieutenant-General and Deputy Chief of the Defence Staff in August of that year.

At that time, the current version of the maritime helicopter SOR was still in its very preliminary draft format. The Senior Management Oversight Committee review had just commenced, with its inaugural meeting being held on June 18, 1998. At that time, General Dempster and the Gray committee reviews of the maritime helicopter SOR were yet to commence. In fact, they began in February and March of 1999.

We also know, from ATI releases, that the Deputy Chief of the Defence Staff organization played no role in the formulation of the maritime helicopter SOR and the Deputy Chief of the Defence Staff — at that time General Henault — had no role in approving it and, in fact, does not even appear on the sign-off sheet. In fact, the person involved with the maritime helicopter SOR was the Vice-Chief of the Defence Staff, who was responsible, as many honourable senators will know, for program management —

The Hon. the Speaker: Senator Forrestall, I regret to advise that your three minutes has expired.

Senator Forrestall: Three words — my last sentence.

The Hon. the Speaker: Three words.

Senator Forrestall: I ask, what prompted the assertions of the Chief of the Defence Staff during this damage-control conference?

ROUTINE PROCEEDINGS

CANADA-FRANCE INTER-PARLIAMENTARY ASSOCIATION

FRENCH PARLIAMENTARY ELECTIONS,
JUNE 9-16, 2002—REPORT TABLED

Hon. Lise Bacon: Honourable senators, I have the honour to table the report of the delegation of the Canada-France Inter-Parliamentary Association for the parliamentary elections held in France, from June 9 to 16, 2003.

[English]

FISHERIES AND OCEANS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE
TO STUDY QUOTA ALLOCATIONS AND BENEFITS
TO NUNAVUT AND NUNAVIK FISHERMEN

Hon. Gerald J. Comeau: Honourable senators, I give notice that tomorrow, Thursday, June 12, 2003, I shall move:

That the Standing Senate Committee on Fisheries and Oceans be authorized to examine and report upon the matters relating to quota allocations and benefits to Nunavut and Nunavik fishermen; and

That the committee table its report no later than March 31, 2004.

MARRIAGE BILL

NOTICE OF MOTION TO RESTORE TO ORDER PAPER

Hon. Anne C. Cools: Honourable senators, I hereby give notice that tomorrow, Thursday, June 12, 2003, I shall move:

That the Order of the Day for resuming debate on the motion for second reading of Bill S-15, An Act to remove certain doubts regarding the meaning of marriage, which dropped from the Order Paper on June 5, 2003, pursuant to rule 27(3), be now restored to the Order Paper.

• (1350)

LEGAL AND CONSTITUTIONAL AFFAIRS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE
TO STUDY LAW OF MARRIAGE

Hon. Anne C. Cools: Honourable senators, pursuant to rule 56(1), I hereby give notice that I shall move:

That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to examine and report on the law of marriage in Canada, in particular its historical and constitutional meaning as a voluntary union between a man and woman, and the history and application of the law

of marriage, and the *Constitution Act, 1982 Charter of Rights*, and the current constitutional challenges to the law of marriage in the courts of British Columbia, Ontario, and Quebec, and the Minister of Justice's November 2002 discussion paper on marriage, and the current demands for different forms of marriage, and the public interest in the law of marriage; and

That the Committee submit its report no later than December 31, 2003.

QUESTION PERIOD

HEALTH

SEVERE ACUTE RESPIRATORY SYNDROME— NORTH CAROLINA CASE—POSSIBLE REINSTATEMENT OF WORLD HEALTH ORGANIZATION TRAVEL ADVISORY

Hon. Wilbert J. Keon: Honourable senators, my question is for the Leader of the Government in the Senate. A North Carolina man who visited a health facility in Toronto has been diagnosed as having SARS. The exportation of this case to the United States, combined with the caseload of more than 60 active probable cases, means that Toronto has met at least two of the criteria that the World Health Organization uses to issue a travel advisory. Although the WHO has decided against this for now, the agency has said it is very worried about the situation in Toronto.

The first advisory against the city was devastating. It is hard to imagine what the outcome of a second advisory would be.

My question is: What is the federal government doing to prevent a travel advisory or, failing that, prepare for a possible reinstatement of the travel advisory?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the Government of Canada is hoping that there will not be a travel advisory. As I indicated once before, there is regular contact now between the WHO and the Government of Canada. The difficulty with the case in North Carolina, to which the honourable senator alludes, is that this individual exhibited no symptoms as he left the country. Clearly, the problem now is: Should our health authorities re-examine the incubation period for this disease? Are there additional initiatives that can be put into place which could eliminate that kind of export case?

I think that, at this stage, it is fair to say that the WHO is as confused as to the next step, as is the Government of Canada because, in the past, there has been a clear link. This time, although the link has been established, the symptoms were not discernible when the gentleman left the country.

SEVERE ACUTE RESPIRATORY SYNDROME— LENGTH OF QUARANTINE

Hon. Wilbert J. Keon: Honourable senators, I thank the minister for raising the subject of the incubation period.

The individual with SARS in North Carolina is suspected of contracting the disease from a symptom-free transmitter. That case, combined with the case last week of a resident in obstetrics who developed SARS symptoms one day after completing a 10-day quarantine, raises concern as to whether that quarantine period is long enough.

Could the Leader of the Government in the Senate tell us if Health Canada officials are reviewing whether the quarantine period for SARS exposure should be extended?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the number of days of quarantine is not imposed by the federal government; it is imposed by the local health authority. However, I can tell the honourable senator that ongoing discussions are taking place between the local health authority, the Department of Health in Toronto, and the Department of Health here in Ottawa.

Clearly, we must do everything we can to get this disease under control. The issue of a quarantine of this particular resident has raised considerable concerns. So far, it appears that the gentleman has had an atypical, instead of a typical, reaction, but it is being monitored carefully at all three levels.

INDUSTRY

SEVERE ACUTE RESPIRATORY SYNDROME— ROUTING OF TRAVEL TO AVOID TORONTO

Hon. Laurier L. LaPierre: Honourable senators, I do not know whether the minister is aware that, at the Banff Television Festival, many foreigners, in particular Americans, told me that they were not forbidden by their companies to come to Calgary provided they did not go through Toronto. In fact, one very large American television empire told one of its vice-presidents, who was receiving a prize, that she would have to go through Denver or Vancouver, but not through Toronto, in coming from New York.

I was wondering whether there is anything we can do about that. It appeared to me, at that time, to be so negatively dangerous for our country, and in particular for the businesses of Toronto.

I am sorry I did not give notice of this question, because I just thought of it.

Hon. Sharon Carstairs (Leader of the Government): The honourable senator has raised a very serious issue here today. The fear that seems to exist is, of course, totally disproportionate to the problem. As the honourable senator knows, and I know that because he was in the room when it was said, the Prime Minister has indicated that when he landed in St. Petersburg, he had to sign a declaration saying that he had not been in Toronto otherwise they would not have let him into the country.

The fear levels on this entire matter are totally disproportionate, as are the implications, not just for the City of Toronto, although there is no question that Toronto is taking the brunt of the problem. We do know, for example, that the Vancouver airport is receiving 50 per cent less passengers. We know that the Banff Springs has hired only 200 out of their normal contingent of 300 summer employees. In fact, this situation is having repercussions straight across Canada for the tourism industry, which is why the announcement, last week, provided money directly to Toronto, but also provided tourism dollars for the rest of the country as well.

FOREIGN AFFAIRS

NORTH KOREA—DEVELOPMENT OF NUCLEAR WEAPONS

Hon. Norman K. Atkins: Honourable senators, my question is for the Leader of the Government in the Senate. North Korea announced, on Monday, that it is developing nuclear weapons in order to reduce the size of its conventional armed forces and its reliance on conventional weapons. The G8 leaders, at their recent summit, issued a statement ordering North Korea and Iran to stop developing nuclear weapons.

Can the Leader of the Government in the Senate tell us if the federal government has made representations to North Korea, stating our strong opposition not only to its nuclear program but also to the possibility of a first-use of nuclear weapons in any conventional conflict?

Hon. Sharon Carstairs (Leader of the Government): I can assure the honourable senator that the North Korean government is well aware of the position of Canada with respect to their development of nuclear weapons. They have been informed of it in the past.

The G8 statement, which clearly was made available to the North Korean government, had our signature on it; a signature which I think all Canadians support.

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS—PRESS CONFERENCE ON MARITIME HELICOPTER PROJECT

Hon. J. Michael Forrestall: Honourable senators, my question is for the Leader of the Government in the Senate. Can the Leader of the Government tell us why the Chief of the Defence Staff, General Ray Henault, discussed his involvement with the statement of operational requirements on the Maritime Helicopter Project during last week's damage control press conference at the Department of National Defence headquarters?

• (1400)

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I do not think it was damage control. The Chief of the Defence Staff held a press conference to keep the media and the Canadian people aware of all the circumstances surrounding the

Maritime Helicopter Project from the defence perspective. It was a valid press conference to hold because, after all, our democratic government is in the business of keeping the citizens informed of the activities of the government.

REPLACEMENT OF SEA KING HELICOPTERS— COMMENTS OF CHIEF OF THE DEFENCE STAFF

Hon. J. Michael Forrestall: I would have thought that this chamber shared in that responsibility, to a certain degree. At the press conference, General Henault stated that he was there, at headquarters, then as the Deputy Chief of the Defence Staff, and before that as the Assistant Chief of Air Staff, and worked through the original Statement of Operational Requirements but also the updated SOR.

Could the Leader of the Government confirm that this statement by the Chief of Defence Staff is somewhat misleading, and makes it sound as though he had been personally involved in the Maritime Helicopter Project file for some considerable time. Was this done to give some degree of legitimacy to this highly politicized process, which has been defended by the government as made by the military, for the military?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I do not think that one should interpret a statement by the Chief of the Defence Staff as being anything other than a statement by the Chief of the Defence Staff. He made the point; he was open to questions, and the media was there in a free and open process to ask whatever questions they wished.

Senator Forrestall: This is the first time in 37 or 38 years on Parliament Hill that I have taken issue with a man in an office for which I have the highest respect.

Would the Leader of the Government be prepared to ask the Minister of National Defence to respond to my charge, if you will, that he made statements that were not based on fact, and that he himself, among others, would have known that at the time? Because of my trust and confidence in him, I now have to do something that I find most distasteful.

Senator Carstairs: The honourable senator has put very serious allegations on the record with respect to the Chief of the Defence Staff. It would seem that the best way to address the allegations would be for the committee, of which he is deputy chair, to choose to hear from the Chief of the Defence Staff in an open forum, thereby allowing the Chief of the Defence Staff to defend his own reputation.

Senator Forrestall: I would welcome, from the Leader of the Government in the Senate, a very direct communication to the chairman of that committee, Senator Colin Kenny, to do just that at the earliest possible moment.

Senator Carstairs: As the honourable senator knows, I do not direct any committee to do what he or any other senator would like it to do.

FINANCE

CRITERIA FOR PROVIDING FUNDING
TO ALLEVIATE CRISIS SITUATIONS

Hon. Douglas Roche: Honourable senators, my question is for the Leader of the Government in the Senate. In recent days, I have raised the question of the need for special economic help by the government on two issues that are not related: The crisis in the beef industry and the humanitarian crisis in the Congo. The government is also receiving requests for economic help for those affected by the SARS crisis, an item that is not connected to the other two items.

Here are three areas of deep concern to many Canadians: the beef industry, the Congo and SARS. I am well aware that the government does not have a bottomless purse, and I am not asking the Leader of the Government in the Senate to set those three issues on a priority basis. However, I am asking the honourable leader to state how the government is approaching this new triple demand for more government resources. What criteria is the government using to determine where to spend needed funds?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the criteria that the Government of Canada uses consistently are, identify the needs of Canadians and the needs of those less fortunate in the world and establish what it thinks are the priorities for where those expenditures should be set. There has not been any change in the criteria and there has not been much difference in criteria between this government and previous governments.

In respect of BSE, the honourable senator should know that there is a federal-provincial-territorial meeting in Vancouver on Friday. They will be discussing issues around compensation and, it is hoped, what they believe they could do cooperatively.

The honourable senator is aware that there is a special cabinet committee devoted specifically to SARS.

In respect of the honourable senator's concerns about the Congo, Canada has not taken the lead in financial assistance to that area. I indicated to him, yesterday, the amount of humanitarian aid that Canada has sent over the last four years. I also indicated that we have been asked to support the lead of France in this matter by sending some Hercules planes and crews to assist. The government will do what it can to meet the needs as they are identified.

I also said, yesterday, that Canada could not be the only one at the table on this issue.

Senator Roche: Yesterday, it was pointed out to me privately — not by the Leader of the Government but by somebody else — that there is a connection between what the beef industry might receive in economic compensation and what those affected by SARS might receive. It was suggested that there might be a political trade-off. I am not making an accusation but I am trying to clear the air.

Could the Leader of the Government in the Senate inform the house as to whether there is a connection in government thinking between what could be done for the beef industry and what could be done for those affected by SARS?

Senator Carstairs: Honourable senators, there is no trade-off. The only issue of concern is what Canadians require in their time of need — what people and industries affected by SARS need and what people and industries affected by BSE need. Neither incident is related to one city or to one province. That does not seem to be well understood across Canada. The effects of SARS and of BSE are being felt across the country. Cattle are raised in each province in Canada, to my knowledge, and as a result, all provinces have been affected by this BSE scare, although some more than others.

LEGAL AND CONSTITUTIONAL AFFAIRS

BILL C-10B LEGISLATION TO AMEND CRIMINAL
CODE—REQUEST FOR CLARIFICATION OF
COMMITTEE'S ORDER OF REFERENCE

Hon. Charlie Watt: Honourable senators, my question is for the Leader of the Government in the Senate. On Tuesday, June 10, at 4 p.m., the order of reference was established to consider the message from the House of Commons concerning Bill C-10B, "to amend the Criminal Code (cruelty to animals)." I realized this morning, from the committee agenda, that the order of reference had been changed, and I need clarification on this matter because it is important. On Wednesday, June 11, at 7:38 a.m., different directions were given and the order of reference on the agenda now reads:

That the Senate concur in the amendment made by the House of Commons to its amendment 4 to the Bill C-10B an act to amend the Criminal Code (cruelty to animals);

That the Senate do not insist on its amendments 2 and 3 to which the House of Commons has disagreed;

• (1410)

I thought the situation was that the first motion was not dealt with but that the second motion was dealt with yesterday, on the floor. I would like to have clarification on this matter so we can put it to rest, if we can.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, it was clear, in a ruling from the Speaker yesterday, that we have sent both motions to the committee. That is where they reside at the present time. As far as the agendas of the Standing Senate Committee on Legal and Constitutional Affairs are concerned, I know nothing about these agendas and have entered into no discussions with anyone about them. The honourable senator would need to put the question about the agendas to the chair of that committee.

Hon. George J. Furey: Honourable senators, the agendas, Senator Watt has referred to them, are taken directly from the order of reference. I do not take as a directive for the committee what the honourable senator has just read out. The committee is to study the motion that was passed here as an order of reference for the committee. I do not take it as a matter that goes before the committee for rubber-stamping.

Hon. Pierre Claude Nolin: Honourable senators, does that mean that the committee can amend the message from the House of Commons?

Senator Furey: That is certainly my understanding. If we look to the last part of the order of reference, or what was taken as an order of reference, the last statement in the Speaker's ruling on this matter yesterday was that the question being put on the motion, it was adopted, on division, and that the question before the Senate be referred to the standing Senate committee. I agree with Senator Watt that there may be some confusion. It is phrased almost as a directive to the committee, but I see it as a question that the committee must consider and can amend if it so wishes.

Senator Nolin: Honourable senators, so that we are all clear, there are five amendments in front of the committee. Two were accepted, No. 1 and No. 5. Amendments No. 2 and No. 3 were rejected by the House of Commons. We can study the rejections. We can also amend the amendment that was proposed to this chamber. On Amendment No. 4, the House has suggested a new version or a new amendment, which to my mind is incomplete, but I will have to convince my colleagues of that. We cannot only say yes or no to the message, but we can amend our Amendments No. 2, No. 3 or No. 4 to adjust them to whatever we think is appropriate to the debate.

Senator Furey: I would make one small change to what Senator Nolin said. I do not think the committee can make the amendments. We can come back and suggest amendments to this chamber and vote on them. Other than that, I follow what the honourable senator is saying and concur.

Hon. Anne C. Cools: Honourable senators, to be crystal clear, I heard the chairman of the committee say that the entire message received from the House of Commons here in the Senate is being referred to the committee. In other words, the committee can consider the whole message. Senator Watt has just shown me the reference as it appears on the agenda for the committee meeting today, and it excludes the message. I want to be crystal clear that the entire message has been referred to the committee.

Senator Furey: Honourable senators, it is my understanding that the committee will be considering the message and the wording that was put in the form of an order of reference in the chamber yesterday. I have no doubt that there is some confusion because the actual message is not appended to the order of reference. However, unless I am wrong and unless the Leader of the Government in the Senate corrects me, I understand that we will be considering the full message and making recommendations to the chamber.

THE SENATE

BILL C-10B LEGISLATION TO AMEND CRIMINAL CODE—POSSIBILITY OF CONFERENCE WITH HOUSE OF COMMONS IN THE EVENT OF DISAGREEMENT

Hon. Serge Joyal: Honourable senators, I should like to address a question to the Leader of the Government in relation of the

context in which there is a disagreement between the two Houses of Parliament. I must apologize for not having given her notice.

As the government leader will know, rule 78 of the *Rules of the Senate* calls upon the two Houses to meet in a conference to try to resolve disagreement. After a bill has been introduced in the other place and dealt with properly and sent back, if this house maintains its position, or some of it, the differences can be resolved through a conference between the two chambers. Will the government pay attention to this rule in the context that, at some point in time, we might end up with conflicting views between the two Houses on Bill C-10B?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, we would want to respect the rule insofar as we can. When the Senate has insisted on its amendments in the past, they have then been returned to us, many times it seems. In some instances, they have travelled back and forth and back and forth. Apparently, former Senator MacEachen asked the government to hold a conference in 1990 with respect to changes to unemployment insurance. The government of the day, the group that sits now in official opposition across from me, in fact, rejected that request on the basis that a conference had not occurred since 1921 and was therefore no longer a precedent.

Hon. Pierre Claude Nolin: Honourable senators, the group in front of you strongly believes in what we are arguing. Somehow, we will have to organize ourselves to make sure we can —

The Hon. the Speaker: I am sorry, Senator Nolin. I want to recognize Senator Beaudoin. He is next, and then I will turn to you.

[Translation]

Hon. Gérald-A. Beaudoin: Honourable senators, the Senate referred the question to the Standing Committee on Legal and Constitutional Affairs. We can accept it in part, or in full. There is absolutely no doubt about that. However, once the matter is handed over to the committee, it is the whole question that is referred, otherwise, we will never finish with it.

Of course, we all agree to refer the question to the committee, which can certainly accept it in part, or in full. However, the committee must act within the limits of its powers. He who can do the most can also do the least.

[English]

Senator Nolin: Honourable senators, does the Leader of the Government think the group in front of her wants the best for this country?

Senator Carstairs: Honourable senators, some would call me naive, but I happen to think that everyone who enters public life does so because they are interested in doing what is in the best interests of this country.

Senator Nolin: Senator Joyal asked the honourable leader, in a preventive way, about a rule we have rarely used but, if need be, could be used to creatively prepare a conference between the two chambers to resolve a conflict. At least on our side — and I mean this chamber — we have a good argument and good reason for proposing those amendments. On the other side, the other chamber, I am not that sure. The question was: Is it the leader's understanding that, in the near future and if there is a need for it, we could have such a conference? I think that was a very valid question.

Senator Carstairs: Honourable senators, I did answer that the Mulroney government rejected the idea of having such a conference. They alleged that the practice was defunct, citing the fact that it had not been used since 1921.

• (1420)

Frankly, we are entering the realm of the hypothetical. I understand that the committee will study this matter for two days — namely, this afternoon and tomorrow morning. Thereafter, they will report to this chamber, at which point some decisions will have to be made as to what the next step will be. The procedure that was used in 1987, 1988, 1990, and apparently in 1991, is that the message was sent back again to the other place.

I do not want to prejudice anything that will happen this afternoon. I have moved that we not insist on our amendments. I cannot retract a motion I moved myself, but the committee will do as it wishes over the next two days.

[Translation]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table two delayed answers: the response to an oral question raised in the Senate by Senator Murray on May 13, 2003, concerning the Newfoundland and Labrador Terms of Union — Conflict with Constitution Act, 1982; and a response to an oral question raised in the Senate by Senator Robertson on May 13, 2003, concerning Severe Acute Respiratory Syndrome.

JUSTICE

NEWFOUNDLAND AND LABRADOR TERMS OF UNION—CONFLICT WITH CONSTITUTION ACT, 1982

(Response to question raised by Hon. Lowell Murray on May 13, 2003.)

The applicable procedure for amending the Constitution of Canada, which includes the Terms of Union of Newfoundland with Canada, depends very much on the specifics of the amendment under consideration. The determination of the applicable procedure can be a complex and debatable issue in some circumstances.

The Terms of Union of Newfoundland and of Prince Edward Island have in the past been amended bilaterally on issues such as denominational schooling, Prince Edward Island's Confederation Bridge, and the name of the province of Newfoundland and Labrador. However, there could be other amendments proposed to the Terms of Union that would fall under other amending procedures. That would be entirely dependent on the nature of the proposal in question, including consideration of existing constitutional provisions that may be the subject of, or affected by, the proposed amendment.

HEALTH

SEVERE ACUTE RESPIRATORY SYNDROME— INFRARED SCREENING OF TRAVELLERS

(Response to question raised by Hon. Brenda M. Robertson on May 13, 2003.)

There have been erroneous media reports that a thermal scanner borrowed from the Singaporean government and installed at Toronto Pearson International Airport was put in place for a photo op and has since been removed.

Following are the facts:

- The scanner arrived on May 6 and was calibrated for use. It was operational on May 7 and the thermal scanner was used in the screening of outbound international passengers at Terminal One.
- At the request of the company that owns this valuable piece of equipment, on the evening of May 7 the scanner was removed from its public location to protect it from potential tampering overnight (this occurs every night of this piece of equipment).
- The scanner was used at Terminal One until May 10 which allowed adequate opportunity to see how it worked in this location with traffic flow.
- On May 10, the scanner was moved to Terminal Three for use at international arrivals and remained there until the end of day on May 16 when it was returned to Singapore.

The Government of Canada would like to thank the Singaporean Government for providing this machine and remains committed to ensuring that SARS is controlled and contained.

Twelve additional thermal scanners — six for Pearson Airport and six for Vancouver International Airport — are now in operation.

[English]

CRIMINAL CODE

BILL TO AMEND—POINT OF ORDER—SPEAKER'S RULING—MESSAGE FROM COMMONS INCLUDED IN ORDER OF REFERENCE TO LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I wish to raise a point of order arising from the wording of the motion passed last night to refer, so we thought, the message from the House of Commons on Bill C-10B to the Standing Senate Committee on Legal and Constitutional Affairs.

My argument is that this was not done, that the message was not sent, and that the wording of the motion did not meet the intent of this chamber yesterday.

I will refer to three precedents to show how it should have been done, and I will then show that the wording of yesterday's motion did not meet the intent of this chamber.

On May 16, 1989, as referenced in our journals, Senator Doody moved that the Senate do not insist on its amendment to Bill C-14. This was following the receipt of a message from the House of Commons. After debate, Senator MacEachen moved, seconded by Senator Argue, that the question — meaning the question that the Senate do not insist — together with the message from the House, be sent to the committee.

On February 11, 1999, upon receipt of a message from the House regarding Bill C-20, Senator Graham, seconded by Senator Carstairs, moved that the Senate concur in the amendments of the House of Commons. After debate, Senator Carstairs, seconded by the Honourable Senator Joyal, moved that the motion, together with the message, be sent to the appropriate committee.

More recently, on May 7, 2002, following receipt of a message from the House, Senator Carstairs, seconded by Senator Robichaud, moved that the Senate not insist on its amendment regarding Bill C-15A. After debate, Senator Kinsella, seconded by Senator Rossiter, moved that the motion, together with the message, be referred to the appropriate committee.

I could quote from the terms of reference on that last example, that the motion together with the message from the House of Commons concerning Bill C-15A be referred to the committee, and I could quote from the proceedings themselves. Each time, the message and the motion are found together.

Yesterday, we thought we had sent the message to committee, but we did not. We sent to committee Senator Carstairs' motion that we agree with the message from the House of Commons, but we did not send the message itself. The position now is that the committee, with Senator Carstairs' motion by itself, has nothing upon which to base a conclusion because it does not

have before it the message on which Senator Carstairs' recommendation is based.

I suggest that what we did yesterday did not meet our intent, which was well stated by Senator Carstairs. As reported on page 1563 of the *Debates of the Senate* of yesterday, she said:

...I moved a motion that that message of the House of Commons go to our committee.

She did move such a motion. We had the extraordinary situation of having two motions before us, which, with all due respect, was highly irregular. We should have dealt with one and then the other. To have two motions before us at the same time is, to put it very politely, highly irregular.

I believe that many of us thought that we were voting on the motion to send the message to committee. As it turns out, we did not do that. We sent the motion to support the amendments to committee, without the message.

If that conclusion is correct, I believe that the committee should ask for a correction of some sort. Otherwise, we must admit that its meeting this afternoon will be pointless because it will have no message before it to study and report back on whether it agrees with Senator Carstairs' motion that was forwarded to it yesterday.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, with the greatest of respect, the honourable senator is challenging the Speaker's ruling of yesterday. In his ruling of yesterday, the Speaker said:

The issue is this: Is there anything not in order with the motion proposed by Senator Carstairs, with leave, that the question first proposed, which I believe includes all matters referred to in the motion she made first, be referred to the Standing Senate Committee on Legal and Constitutional Affairs?

He went on to say:

I have discussed this matter and looked at the precedents and rules, and I can find no impediment, no problem with the Senate voting on the motion currently before the Senate. I so rule.

Senator Lynch-Staunton: I am not challenging the validity of the motion. I am saying that the motion we passed did not include the message, and therefore the committee does not have the message before it.

Senator Carstairs: With the greatest of respect, the Speaker says it does.

Senator Lynch-Staunton: The Speaker may have said that, but with all due respect, I base my remarks on the wording with which the committee will have to live in order to do its work. Nothing in its terms of reference includes the message. It is not the Speaker who writes motions here.

Hon. Anne C. Cools: Honourable senators, I am still of the opinion that the matter is not clear. I began raising this issue yesterday early in the debate because I was under the impression that we had before us two distinct and separate motions. I believe that I said at one point that the second motion was a superseding motion, not a motion amending the first motion. I asked for clarification on that point early on in the debate.

I have sat through many of these debates and I know the results. Senator Carstairs mentioned the amendment to the unemployment insurance bill in 1989. I participated in that debate.

I have questioned the chairman, and the chairman feels confident that the message has been referred to the committee. Yet, I can see no evidence of that.

With all due respect to His Honour, I do not believe that Senator Lynch-Staunton is questioning the Speaker's ruling. He is merely questioning whether the result of the vote is what the Senate intended. In other words, was the message carried over to the committee, as was the intention of the debate and the vote? It is clear that the message cannot be referred to the committee by an act of any person's mind here or by an act of any person's will here. It is done by a vote of the chamber.

I do not know how we will clarify this situation. In its notices of meetings, the committee usually states its order of reference. The order of reference, as stated here, does not include the message.

Perhaps when we sit down at the committee meeting later today, we will discover that it is miraculously there. It is crystal clear, however, that the chairman believes that the message and this intention about not insisting on the Senate's amendments were both referred.

• (1430)

I do not know how we are to resolve this situation because the wiser action would have been to clarify in the motions themselves that both were being sent to the committee.

This is a serious matter. The scripting of motions is no simple matter. It should be better attended to.

Hon. George J. Furey: I believe the question was addressed to me, Your Honour. I would like to take a moment to see if we can clarify this matter.

There is some confusion. The agenda does not make reference to the actual message that came from the other place. With the consent of the chamber, I propose that I amend the agenda before our committee officially begins its hearing today and append to it the actual message from the other place.

Senator Lynch-Staunton: Still on the point of order, honourable senators, I am sure we will get to that.

I am told that I was challenging the Speaker's ruling. On the contrary, I am agreeing with the Speaker. I will quote verbatim the Speaker's words found at page 1576 of the *Debates of the Senate*:

I am now at the point of the question. I do not want to repeat my ruling because I will make things more confused than they need to be. I have ruled that the question before us is in order, and there is only one question before us — not two. That is, to refer the question to committee, which is the identification of the motion that was put by Senator Carstairs in starting the debate.

It is clear that we were voting on the first motion.

Some Hon. Senators: Question!

Then the Speaker quotes Senator Carstairs' motion.

Senator Lynch-Staunton: What happened to Senator Carstairs' first motion?

I wanted to ensure that what we were voting on was what we intended to vote on, and the Speaker replied:

The first motion has now been referred to the Standing Senate Committee on Legal and Constitutional Affairs.

Fine. Then I am quoted as saying:

Could I ask why we were not allowed to vote on the first motion?

What I meant to say or should have said or what I thought I said was: "Could I ask why we are not allowed to vote on the second motion?" That was the motion to send the message to the committee.

The Speaker replied:

We could have voted, but it was not moved.

The Speaker confirms that the message did not go to committee only Senator Carstairs' first motion.

I think that my point of order is well based. The intent of this chamber, which is repeated throughout the debates, to send the message to the committee was not honoured or respected.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition) Honourable senators, the issues around the orderliness of the matter really flow from rule 62(1) and perhaps, more particularly 62(1)(i). I would suggest that this house, by unanimous consent agree that the message be sent to the committee. This is what we all are saying, in effect. Senator Lynch-Staunton is correct in his point of order. However, beyond the point of order is the question of what I take to be the common view of the house; namely, that we want to have before the Standing Senate Committee on Legal and Constitutional Affairs not only Senator Carstairs' motion but, more important for some, the message itself.

[Translation]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, it is clear in my mind that the message is related to Senator Carstairs' motion. If the honourable senators accept Senator Kinsella's suggestion, our problem is solved.

Of course, the message will be sent to the Standing Committee on Legal and Constitutional Affairs. As a result of yesterday's ruling by the Honourable the Speaker, the chair of that committee also believes that the message was accompanying the motion so that all of it could be sent to the committee for consideration. I do not think there is a problem. We should go ahead and let the committee do its work.

[English]

The Hon. the Speaker: I wish to clarify, Senator Robichaud. Were you in agreement with Senator Kinsella to agree to add the words "and the message"?

Senator Lynch-Staunton: No, I want a ruling on the point of order. This is not the time for negotiation.

[Translation]

Senator Robichaud: Honourable senators, I rise on a point of order. I think we may have gone a bit astray when Senator Kinsella made his suggestion to settle the issue. I have no objection to accepting Senator Kinsella's suggestion, since it is clear that the motion was attached to the message received. If it will simplify things, and move them forward, we have no problem with Senator Kinsella's suggestion.

[English]

The Hon. the Speaker: Honourable senators, if Senators Kinsella and Robichaud agree that the order of this chamber referring Senator Carstairs' motion to committee include the words that not only is it a reference of the question put by Senator Carstairs but as well the message to which it relates, that would resolve the question that Senator Lynch-Staunton has raised. If we agree to add that wording, then I think Senator Lynch-Staunton has achieved his objective and we will have accomplished what we have done in the past in terms of practice with respect to these matters.

I would need unanimous consent. I may not get it. However, in fairness to Senators Kinsella and Robichaud, I should ask for it. If unanimous consent is not forthcoming, we will proceed with the point of order.

Is there unanimous consent, honourable senators?

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

The Hon. the Speaker: There is not unanimous consent.

Senator Lynch-Staunton: There is not. No, I want a ruling on the point of order. It is so easy to sweep everything under the rug. We are getting too casual here. If we did the right thing last night, I want a ruling to say that my point of order is not properly based. If we did things in a way that did not meet the intent of the chamber, let us correct that after the ruling, and not just say, "Oh, well, let us get together and do a little rewording." No, no. If the wording of the motion is not what we intended, then the committee may have to reconvene the meeting and reword its purpose by including the word "message." It is not so simple as "wink-wink, nod-nod."

Hon. Tommy Banks: Is a motion in order now?

The Hon. the Speaker: No, we are on a point of order. I had asked for unanimous consent to proceed in a certain way. It was not forthcoming. Do you wish to intervene on the point of order?

Senator Banks: No, I will wait until there is a motion.

[Translation]

Hon. Gérard-A. Beaudoin: Honourable senators, the only way to resolve this problem is to come to the conclusion that the message is implied. We cannot refer something to a committee without taking for granted that the message will be before the committee, otherwise it is pointless.

I agree with those who made this argument. The message is there. Senator Carstairs spoke at length about it and we are going to refer everything to the committee. It is clear that the message is part of the whole; it is part of the question. In my view, the committee should decide on the message and on the question. Otherwise, why refer it to the committee? That is the only way to resolve matters.

We did not refer to the message clearly, but it is implied, and I feel it is part of the motion.

• (1440)

[English]

Senator Cools: I agree with Senator Lynch-Staunton that we should proceed properly and in a formal way. I think senators should understand that unanimous consent is a matter of leave. It is usually a permission granted. Unanimous consent cannot be used to adopt motions. It is simply not in order; it is not proper.

It seems to me that what we have here is a vote that has already been taken, and is now an order of the house. What we are really talking about is amending something that has already happened. I would suggest, honourable senators, once we have untangled ourselves from this point of order, that the proper way to proceed is to put down another motion which essentially fulfils any deficiency that there was in the first one. Perhaps it would be simple, and I am sure everyone would grant leave to move a motion saying that the Senate intended the committee to have the Commons message before it for its consideration.

Not to do that, honourable senators, puts the Senate and the committee in the position that the committee will convene at 3:30 p.m. and then, at that point in time, find that the order of reference is insufficient and that the Commons message is not before it. The committee would then have to return to the Senate for a reference which includes the Commons message.

Another point, since we would be trying to augment a motion that was passed, and not rescinded, is that the motion could be passed by the usual process, which is a simple majority. We are not repealing the previous one.

Honourable senators, in particular to you, Your Honour, motions cannot be moved and adopted in this place by use of unanimous consent. As a matter of fact, motions usually proceed on notice, with movers and seconders, and so on. I think senators should not be confused into believing that we can proceed on something so fundamental by unanimous consent.

Hon. Eymard G. Corbin: Honourable senators, I checked the *Journals of the Senate* for today. The Journals make it clear that the second question put by Senator Carstairs yesterday dealt with a message to be sent to the House of Commons, not the original message we got from the House of Commons.

There is confusion about messages here, and we should ask ourselves: Which message are we talking about, and which message was the second motion addressing? In my opinion, the message is a message to be sent back to the House of Commons. The original message received from the House of Commons has never been referred to the committee, in yesterday's proceedings. It is in suspense in this house. The message and the text of that so-called message, which we have sent to the committee, read as follows:

Bills.

Consideration of the Message from the House of Commons concerning Bill C-10B, An Act to amend the Criminal Code (cruelty to animals).

The Honourable Senator Carstairs, P.C., moved, seconded by the Honourable Senator Robichaud, P.C.:

That the Senate concur in the amendment made by the House of Commons to its amendment 4 to the Bill C-10B, An Act to amend the Criminal Code (cruelty to animals);

That the Senate do not insist on its amendments 2 and 3 to which the House of Commons has disagreed; and

That a Message be sent to the House of Commons to acquaint that House accordingly.

After debate, Senator Carstairs, with leave of the Senate, moved that the question now before the house — what is that question? The question has to do with a message to be sent to the House of Commons, not the one which we received.

Could we, then, clear the air about which messages we are discussing? In my opinion, the message received from the House of Commons has never been sent to the committee. We are talking about a message to be sent anew to the House of Commons. That was the second question that was put to this house yesterday.

The Hon. the Speaker: Final word, Senator Lynch-Staunton?

Senator Lynch-Staunton: No.

The Hon. the Speaker: I intend to rule now.

Senator Lynch-Staunton: I do not completely agree with Senator Corbin, but there is a question: Where is the message from the House of Commons? It has not gone to committee. I think that has been substantiated, and it is not on our Order Paper, so where is it?

SPEAKER'S RULING

The Hon. the Speaker: Thank you, honourable senators. Senator Lynch-Staunton's point of order, as I understand it, is that the proceeding yesterday did not reflect the intent of this chamber. He relies on the wording of the motion that we adopted which is that the question now before the Senate be referred to the Standing Senate Committee on Legal and Constitutional Affairs; and that the committee report no later than Thursday, June 12. The word "question" in that motion refers to the motion of Senator Carstairs, which reads:

That the Senate concur in the amendment made by the House of Commons to its amendment 4 to the Bill C-10B, An Act to amend the Criminal Code (cruelty to animals);

That the Senate do not insist on its amendments 2 and 3 to which the House of Commons has disagreed; and

That a Message be sent to the House of Commons to acquaint that House accordingly.

We then got into a discussion of intent, and I have the benefit of having heard pretty much all of the exchanges that have occurred here in the course of debate on this matter. Even so, I believe it is my obligation to interpret the motion in accordance with the plain meaning rule.

Can I read into it more than it says? For instance, can I read into it that the question, which was Senator Carstairs' motion that was referred to the committee, is more than that; that being those matters in which the House did not concur? I cannot. I do not believe that the message is included, and in that respect Senator Lynch-Staunton and Corbin and some others are correct.

What I was asked to do yesterday was to answer the question as to whether or not the motion that was put before us was a proper one, and one that was in accordance with all of our rules and practices. I ruled that it was, even though, as has been brought out in discussion here, it did not follow the past practice where reference is made to both the question and the message.

I add parenthetically to Senator Lynch-Staunton that Senator Doody's motion, Senator Graham's motion, and Senator Kinsella's motion, all of which he referred to, were in essentially the same situation, where we had two motions. In none of those cases was the first motion disposed of before the matter was referred to committee. Therefore we are not in a different situation now than we were during those past practices that he has referred to in his argument.

Accordingly, I rule that what we have done is correct. In terms of the point of order, I cannot interpret it that which, under its plain meaning, does not exist. Having said that, I wish to add the comment that our rules apply to proceedings in this place. The rules of committees, unless they are mandated by this place to the committee through direction, are for the committee. The committee would be the master of its proceedings in terms of what it took into consideration in fulfilling what it is that the Senate has asked it to do, and that is study Senator Carstairs' motion.

To sum up, the motion, in terms of the issue of order, stands as it is. There is nothing I can do as Speaker to read into it more than is indicated by the plain wording of the motion. I do not need to comment on the regularity of the motion because I have already done that, as Senator Carstairs observed. I ruled that it was in order, and that we have done nothing out of order. Nor have we breached any of our rules or practices of parliamentary procedure in doing what we did.

I had forgotten about Senator Banks' point.

• (1450)

MESSAGE FROM COMMONS REFERRED TO COMMITTEE

Hon. Tommy Banks: No, you did not, Your Honour. I had asked whether a motion was in order, and you said no, because a point of order had been raised.

Arising out of Your Honour's decision and the discussion, I move:

That the Message from the House of Commons concerning Bill C-10B, An Act to amend the Criminal Code (cruelty to animals), be now referred to the Standing Senate Committee on Legal and Constitutional Affairs; and

That the Committee report no later than Thursday, June 12, 2003.

The Hon. the Speaker: This will require leave, honourable senators, to move. Is leave granted?

Hon. Senators: Agreed.

The Hon. the Speaker: Leave is granted.

It is moved by the Honourable Senator Banks, seconded by the Honourable Senator Wiebe, that the message from the House of Commons, received in respect to Bill C-10B, be referred to the Standing Senate Committee on Legal and Constitutional Affairs,

and that the committee report back with respect to the message, together with its report on Senator Carstairs' question that was referred to it yesterday.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Hon. John Lynch-Staunton (Leader of the Opposition): Wait a minute. It is not a question of getting one's way; it is a question of doing things properly.

The committee now has a new mandate, which means it will have to send a new notice of meeting. It is now 10 minutes to three, and the committee still wants to meet at 3:30 p.m. We just cannot rush things through like that.

The committee now has two mandates. I would have thought that the wording of the three cases that I quoted would be used. It would have been simple to marry Senator Carstairs' motion with the message and refer them as a package. However, if honourable senators want to proceed in this way, I will not stand in the way. I thought that basic procedure was still an element of proper conduct around this place.

In any event, I would like to have a copy of the motion to see that it at least meets some basic requirements.

The Hon. the Speaker: I was not reading from a text.

Are there other senators who wish to speak? If no other senator wishes to speak, is the house ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker: Honourable senators, I was not reading from a text but, rather, using Senator Banks' motion and reciting it from memory. If we could suspend for four or five minutes until I get a transcript of what I said, I would be in a position to read the motion back to you. It is an important matter, honourable senators, because of Senator Lynch-Staunton's point.

Is it agreed?

Hon. Senators: Agreed.

The Hon. the Speaker: We will suspend for five minutes.

The sitting of the Senate was suspended.

• (1457)

The sitting of the Senate was resumed.

The Hon. the Speaker: Honourable senators, I now have a text, and I will put the question.

Senator Cools, did you wish to speak?

Hon. Anne C. Cools: I just think that the record should show clearly that this motion is not an attempt to overrule or supplant the first one, but is intended to supplement any deficiencies that may have existed. We are not overturning anything that has happened before; we are just removing any doubts as to what the will of the chamber was, and what this house was trying to do.

The Hon. the Speaker: That is a good point.

I will put the question:

It was moved by the Honourable Senator Banks, seconded by the Honourable Senator Wiebe:

That the message from the House of Commons concerning Bill C-10B, An Act to amend the Criminal Code (cruelty to animals), be now referred to the Standing Senate Committee on Legal and Constitutional Affairs; and

That the Committee report no later than Thursday, June 12, 2003.

Is it your pleasure, honourable senators to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

[Translation]

ORDERS OF THE DAY

PUBLIC SERVICE MODERNIZATION BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Robichaud, P.C., for the second reading of Bill C-25, An Act to modernize employment and labour relations in the public service and to amend the Financial Administration Act and the Canadian Centre for Management Development Act and to make consequential amendments to other acts.

Hon. Pierrette Ringuette: Honourable senators, as a French Canadian and a native of New Brunswick, I am very pleased to be able to speak to Bill C-25 at second reading stage.

I am the product of the concept of equal chance put in place in New Brunswick by the Honourable Senator Louis J. Robichaud. As you listen to my words, I would like all of you to consider the value this concept of equal chance, now called equal opportunity, represents to me. It is the reason I have a lot to say about Bill C-25, which in reality combines four different bills.

[English]

I would like to underline at least four major elements within one of the four bills that are of major concern to me as a New Brunswicker and as a Canadian.

The first one is that Bill C-25 re-establishes the criteria of geographic zone in order to be eligible to apply for a job in the federal public service. That zone is 50 kilometres. Another major issue we have to consider when reviewing Bill C-25 is the fact that in the next five years almost 25 per cent of the public service of Canada will be renewed. People are retiring. That is a quarter of the public service.

• (1500)

Senator Bolduc mentioned another major element a few days earlier. We are talking about the level of qualifications now referred to as "satisfying the criteria." We are no longer looking for the "highly qualified," which is very important when one realizes that 25 per cent of the public service will be replaced within the next five years with people who can only be required to "satisfy the criteria" and need not be "highly qualified."

Another major issue that I have been hearing constantly for the last 10 years is that there is bureaucratic patronage in our public service system. The Fathers of Confederation knew very well what they were doing when they established, in our Constitution, the Senate. The balancing of regional representation in the Senate compensates for the other place where the most populous areas hold the most power over government and over our country.

Bill C-25 represents the perfect example of how we, as senators with the responsibility of this institution, can stand for equality of treatment among the population of our regions. We also have a responsibility to our Constitution and to its valuable Charter of Rights and Freedoms, which includes mobility rights.

I quote from article 6:

6.(1) Every citizen of Canada has the right to enter, remain in and leave Canada.

(2) Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right

a) to move to and take up residence in any province; and

b) to pursue the gaining of a livelihood in any province.

Taking into consideration clause 34 of Part 3 of Bill C-25 dealing with the proposed public service employment act, the commission may establish geographic criteria for the purpose of eligibility for both internal and external competition. As I said earlier, this geographic criteria has now been set — by regulation probably — to 50 kilometres.

For instance, in the greater Ottawa region, we have about 1 million in population but 40 per cent of the federal public service jobs. In other words, 0.3 per cent of the Canadian population has sole access, exclusive access, to 40 per cent of federal government jobs.

About 20 per cent of the jobs in the public service are in Montreal, where we have about 10 per cent of the Canadian population. Approximately the same numbers apply for the Toronto area. One does not need to be an accountant to add these numbers.

I must also state, though, that this group of 20 per cent of the Canadian population within Montreal and Toronto are not allowed to compete for the 60 per cent of federal government jobs outside the 50-kilometre zone.

Basically, 80 per cent of the jobs will be restricted to 20.3 per cent of the Canadian population, leaving only 20 per cent of possible federal jobs for the 80 per cent of our population who live outside those three major cities of our country.

For instance, people living in Kingston cannot apply for a job in Ottawa. People living in Hamilton cannot apply for jobs in Toronto. People living in Edmundston cannot apply for jobs in Fredericton nor in Moncton, New Brunswick, because of these restrictions that a major institution has imposed of its own will.

With years of restrictions, roughly 80 per cent of public employees come from those three major centres.

What is the impact of that 80 per cent of the public service on policies and programs? They analyze issues, make recommendations and implement programs as per their heritage and their knowledge of the country. Eighty per cent of those people probably come from the three cities.

Let me relate a personal experience to show how our public servants are somewhat disenfranchised with the reality outside Central Canada. In 1995, I was the Member of Parliament for Madawaska—Victoria. There was a discussion about changes from UI to EI. I met with the director of the program who was a very nice lady, by the way, and I said this to her: Take into consideration that we, the federal government, decide when our fishers can fish, from this date to this date. We are the ones who tell them when they can work. On the other hand, in order to qualify for EI, the limited time frame, which we impose on them, should be three times longer.

What did that lady tell me in response? She said, "Well, maybe the people who are fishing in Newfoundland could go fish in Vancouver afterwards."

What I am saying to you, honourable senators, is of much value. This issue is inherent in our responsibility as the Senate — we must care for all the people of Canada. We must have an understanding of what is happening in all the regions of Canada. In order to have that understanding, we need a public service that comes from all the regions of Canada.

Hon. Senators: Hear, hear!

Senator Ringuette: This is true not only for external competition; it is also true within the internal processes of the public service, even within the established geographic zone of 50 kilometres.

For 10 years I have been making arguments about the unfairness of the process. The process does not create opportunities. This is not right and does not concur with the mobility rights within our Charter of Rights.

• (1510)

It has been 10 years now. I have been told in the last few months, "We have pilot projects in the Toronto area. This will cost much money." I asked, "How much?" I was told, "Well, we can buy software to do that, but roughly, it will be \$38 million." Honourable senators, \$38 million, in the context of providing equity, fairness and opportunity to the citizens of this land is, in my words, "peanuts."

I will give you another example from my discussions. They said, "You know that it is very costly for us to provide linguistic certification for applicants." I said, "My God, you people. Do you know that across this land of ours we have human resources offices all over the place; we have university campuses all over the place. Why do you not allow the people who are in charge of education to certify the linguistic capability of the people who want to apply to become public servants? You do not have to bear the cost of that."

However, there is this certain silo way of looking at things that has to be broken. I therefore recommend that the Senate amend the legislation to remove the geographic criteria from internal and external competition for all levels of jobs within the federal public service.

Hon. Senators: Hear, hear!

Senator Ringuette: Bill C-25 also includes an interesting thing, and that is the delegation of power from the commission to the deputy heads to managers. That is of grave concern to me because this means that whatever we close in regard to loopholes in this bill, and whatever we say must be removed in regard to zoning, this delegation of power provides that managers, any managers, can bring in people through the back door. We have always heard of political patronage.

Some Hon. Senators: Oh, oh!

Senator Ringuette: Yes, the awful words — political patronage. Bill C-25 does deal with political influence.

[Translation]

Hon. Rose-Marie Losier-Cool (The Hon. the Acting Speaker): Honourable senators, I regret to inform the honourable senator that her time is up. Does she seek leave to continue?

[English]

Senator Ringuette: Honourable senators, may I have leave to continue?

Hon. Senators: Agreed.

Senator Ringuette: Honourable senators, in the bill, at clause 68 and clause 69, provision is made for the commission to investigate complaints that deal with, in clause 68, political influence and, in clause 69, fraud. Nowhere in the entire Bill C-25 do we see the capability of either the commission or the tribunal to investigate complaints about bureaucratic patronage — the back door boys.

We have heard stories of bureaucrats who say, "You hire my son, and I will hire your daughter. Do you not have a cousin who is looking for a job?"

An Hon. Senator: Yes.

Senator Ringuette: Honourable senators, we have all heard stories galore to this effect. Therefore, I also recommend that the Senate amend Bill C-25 to include, for the commission and for the new tribunal that is being created, the mandate to investigate complaints of bureaucratic patronage within and from the outside.

At the last committee meeting I attended, we were talking about the issue of a preamble in the bill. I would like to read you a few lines from the preamble of this bill:

Canada will continue to benefit from a public service that is based on merit and non-partisanship and in which these values are independently safeguarded;

Later in the preamble, it reads:

the public service, whose members are drawn from across the country, reflects a myriad of backgrounds, skills and professions that are a unique resource for Canada;

How arrogant to put in the preamble of this bill such values and yet put in proposed section 34, Part 3, and restrict the opportunities of Canadians to put forward their skills to be good public servants.

In closing, I do believe that the public service is an extremely important national institution that plays a key role in responding to the Canadian public. We need the time to review this legislation; to give it sober second thought. Although I am not a member of the Standing Senate Committee on National Finance, which will be receiving this bill —

Senator Murray: The honourable senator would be most welcome to attend.

Senator Ringuette: I do intend to attend each meeting to question every clause of the four parts of the bill and promote amendments for equality of opportunity for every citizen, wherever they may live, in this great land of ours. I also intend to promote open and nonbiased advertised competition for both internal and external competition.

Honourable senators, I do hope that I will have your support in my endeavour to make this a fairer situation.

Hon. Senators: Hear, hear!

[Translation]

Hon. Lowell Murray: Honourable senators, I would like to congratulate Senator Ringuette for her speech on this important bill.

If, as expected, the bill gets through second reading before the end of this week, we will commence sittings of the Standing Committee on National Finance next Tuesday at 9:30 a.m. We will be hearing from the honourable minister, Lucienne Robillard who is responsible for this bill. Senator Ringuette will have a chance to ask her questions at that time. Assuming second reading is over, we will also have the pleasure on Wednesday evening, at 6:15 p.m., of welcoming Public Service Commissioner President Scott Serson. Senator Ringuette will have an opportunity to express her point of view.

Senator Ringuette: Thank you, honourable senators. I will be pleased to attend those two meetings. This is an issue that has been close to my heart for ten years now. Last week I told some PSC representatives who were visiting that I would see no problem in asking questions on this bill during clause-by-clause consideration, to ensure justice is done.

• (1520)

[English]

Hon. Terry Stratton: I am always surprised when people throw around figures in the millions of dollars as if it were no big deal. I think \$38 million is a big deal and we should look at it carefully.

On motion of Senator Stratton, for Senator Oliver, debate adjourned.

PENSION ACT ROYAL CANADIAN MOUNTED POLICE SUPERANNUATION ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Morin, seconded by the Honourable Senator Furey for the second reading of Bill C-31, to amend the Pension Act and the Royal Canadian Mounted Police Superannuation Act.

Hon. Norman K. Atkins: Honourable senators, it is a pleasure for me to join in the debate today on Bill C-31. Senator Morin spoke to the bill on behalf of the government last Thursday. This bill extends the coverage for our Canadian Forces and for the Royal Canadian Mounted Police by providing them with insurance coverage in virtually all situations of elevated risk during deployment. At present, coverage extends to disability or death that occurs in the completion of their duties.

In addition, existing coverage provides insurance against a perils on a 24-hours-per-day/seven-days-per-week basis to those serving in special-duty areas. These are areas outside of Canada. Bill C-31 would ensure more complete coverage for members of the Canadian Forces and RCMP deployed to designated operations involving exposure, both inside and outside of

Canada, to conditions of elevated risk, including armed conflict. These amendments, at least at first reading, would seem to make it easier to obtain approval for designating special-duty areas that are based on a specific geographic location and to create the new type of service called special-duty operations that are not based on geographic location and could also include situations of elevated risk in our country. Examples of this might be the Swissair tragedy, the Manitoba flood, or the notorious ice storm.

Coverage by virtue of this bill would provide members who are exposed to conditions of elevated risk with 24-hour coverage for death and disability from the date of deployment until the date of return, under all circumstances while deployed.

This bill would also change the manner in which special-duty areas and special-duty operations come into being. It allows the Minister of Defence or the Solicitor General, in consultation with the Minister of Veterans Affairs, to designate an area or an operation quickly. The present system is cumbersome, multi-levelled and can take more than 10 months to implement. Bill C-31 also outlines in detail the criteria to be used for establishing elevated risk, which would ultimately lead to designation of special-duty areas or operations.

As the world becomes less and less safe and the deployment of both our troops and members of the RCMP on missions of peacemaking, peacekeeping or all-out conflict becomes more and more the reality, it is incumbent upon the government to insure these women and men against the loss due to the dangers they may face. The maximum protection possible should be provided, regardless of rank, to give these people serving their country, and their families, some measure of peace of mind.

I would hope that the government would not hesitate to designate the areas to which we send these people as special-duty areas. I would suggest that we would want to be overprotective. I believe those involved in the implementation of this legislation should aspire to apply it generously and expeditiously, which will increase the peace of mind of those deployed. For example, if someone is hurt before an area or mission receives a designation, that designation would apply retroactively to give benefits to anyone hurt before the appropriate designation has been made.

I would expect, as I think most Canadians would expect, that all persons deployed would be treated equally under the clauses of this bill. The Subcommittee on Veterans Affairs has just issued its report on the plight of retired Major Henwood. The committee's report exposed the different standards used in the forces that apply to senior officers, officers and non-commissioned officers. My hope is that the committee studies Bill C-31 thoroughly to ensure that it covers every eventuality created by elevated risk and that it applies equally to all who are exposed to these risks. In my opinion, Bill C-31 is most appropriate and long overdue.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

[Translation]

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Morin, bill referred to the Standing Senate Committee on National Security and Defence.

BUSINESS OF THE SENATE

COMMITTEES AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, it being Wednesday, certain committees meet at 3:30 p.m., I would ask the consent of honourable senators for committees to sit at the same time as the Senate.

[English]

The Hon. the Speaker: Is it agreed, honourable senators, that committees scheduled to meet today be allowed to sit even though the Senate is now sitting?

Hon. Marcel Prud'homme: Honourable senators, are there many committees that would ask leave to sit? Our numbers in the house are fewer and fewer, and although I enjoy being quorum for the government, I do not feel obliged to do it all the time. I would be happy to cooperate, as usual.

[Translation]

Senator Robichaud: Honourable senators, currently, the Standing Committee on Legal and Constitutional Affairs is scheduled to meet at 3:30 this afternoon.

[English]

Hon. Douglas Roche: Honourable senators, is it the intention of the Deputy Leader of the Government in the Senate to go through the whole scroll, or will the house adjourn at 3:30?

[Translation]

Senator Robichaud: Honourable senators, we will deal with the items under Government Business, and let the other items on the Order stand until the next sitting.

[English]

The Hon. the Speaker: Is it agreed, honourable senators, that committees scheduled to meet at 3:30 p.m. or later today be given leave to sit even though the Senate is now sitting?

Hon. Senators: Agreed.

**MEMBERS OF PARLIAMENT RETIRING
ALLOWANCES ACT
PARLIAMENT OF CANADA ACT**

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Robichaud, P.C., seconded by the Honourable Senator Rompkey, P.C., for the second reading of Bill C-39, to amend the Members of Parliament Retiring Allowances Act and the Parliament of Canada Act.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I rise to speak briefly to Bill C-39. I have received the briefing notes and one of my questions has now been answered. Whatever else may arise could certainly be dealt with at committee. I have no objection to this bill going forward.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

• (1530)

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Robichaud, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

[Translation]

LEGAL AND CONSTITUTIONAL AFFAIRS

**MOTION TO AUTHORIZE COMMITTEE TO STUDY
INCLUDING IN LEGISLATION NON-DEROGATION
CLAUSES RELATING TO ABORIGINAL TREATY
RIGHTS—DEBATE CONTINUED**

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Robichaud, P.C.:

That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to examine and report on the implications of including, in legislation, non-derogation clauses relating to existing aboriginal and treaty rights of the aboriginal peoples of Canada under s. 35 of the *Constitution Act, 1982*; and

That the Committee present its report no later than December 31, 2003.

Hon. Gérard-A. Beaudoin: Honourable senators, it goes without saying that I am in complete agreement with the motion presented by the Honourable Leader of the Government in the Senate. The time has come to study the impact and consequences of a non-derogation clause on the rights of Aboriginal peoples. These rights are guaranteed by section 35 of the *Constitution Act, 1982*.

As Senator Carstairs has pointed out, a non-derogation clause has been included in certain bills. Nevertheless, the wording of these clauses differs from one bill to the next. There is no consistency, and that should be corrected.

To this end, the Standing Committee on Legal and Constitutional Affairs should hear witnesses who can offer useful suggestions, first, on the scope of this kind of non-derogation clause, and second, on the exact and correct wording that will be satisfactory to everyone with an interest in this kind of provision.

Honourable senators, allow me to remind you that the Charlottetown Accord of 1992 already had a clause providing that:

There should be a general non-derogation clause to ensure that division of powers amendments will not affect the rights of the Aboriginal peoples and the jurisdictions and powers of governments of Aboriginal peoples.

I believe that this item should be brought before the Committee on Legal and Constitutional Affairs as soon as possible in order to find a solution to this significant problem.

On motion of Senator Banks, for Senator Cools, debate adjourned.

**L'ASSEMBLÉE PARLEMENTAIRE
DE LA FRANCOPHONIE**

**PARLIAMENTARY AFFAIRS COMMITTEE MEETING,
MAY 17-21, 2003—REPORT TABLED**

Leave having been granted to revert to Tabling of Reports from Inter-Parliamentary Delegations:

Hon. Pierre De Bané: Honourable senators, pursuant to rule 23(6), I have the honour of tabling in both official languages the report of the Canadian branch of L'Assemblée parlementaire de la Francophonie, and the financial report relating thereto, on the meeting of the APF Parliamentary Affairs Committee held in Sofia, Bulgaria, from May 17 to 21, 2003.

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government) Honourable senators, would the House agree that all remaining items on the Order Paper stand in their place until the next sitting of the Senate.

English]

The Hon. the Speaker: Is it agreed, honourable senators, that all remaining items on the Order Paper stand in their place, and that we proceed now to the adjournment motion?

Hon. Senators: Agreed.

Translation]

Senator Robichaud: Honourable senators, with leave of the Senate, I move:

That the Senate adjourn during pleasure and resume its sitting at the call of the Chair later this day.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

English]

Hon. Marcel Prud'homme: A quick point of order, honourable senators. If any senator would like to show up at five sharp, there will be a small presentation to the Ambassador of Morocco in the Francophonie Room. I know it is not exactly a point of order, but just a friendly reminder. Just come and shake his hand and come back to do your duty. I thank you very much for your patience.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

The Hon. the Speaker: As a reminder, honourable senators, as your presiding officer, I will ask that the bells be rung for

15 minutes before I take the chair. In that we are now adjourning, I will depart by the back door, and the mace will be left on the table.

The sitting of the Senate was suspended.

• (1840)

[Translation]

The sitting of the Senate was resumed.

CANADA ELECTIONS ACT INCOME TAX ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-24, to Amend the Canada Elections Act and the Income Tax Act (political financing).

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Robichaud, bill placed on the Orders of the Day for second reading at the next sitting of the Senate.

The Senate adjourned until Thursday, June 12, 1003, at 1:30 p.m.

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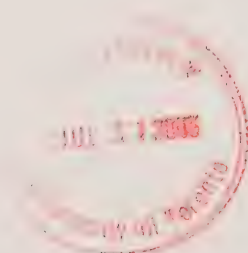
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NUMBER 67

OFFICIAL REPORT
(HANSARD)

Thursday, June 12, 2003

THE HONOURABLE DAN HAYS
SPEAKER



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THE SENATE

Thursday, June 12, 2003

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

SENATOR'S STATEMENT

OPENING OF JUNO BEACH CENTRE

Hon. Joseph A. Day: Honourable senators, when I rose on Monday to add to the comments by Honourable Senator Atkins in respect of D-Day, I paid tribute to the Juno Beach Centre Association. I should like, today, to pay tribute to others who helped to contribute to the very successful celebration that took place. The Minister of National Defence, the Honourable John McCallum, and the Minister of Veterans Affairs, the Honourable Rey Pagtakhan, deserve our thanks for helping to support this memorable activity.

The President of the Canadian Battle of Normandy Foundation, retired Lieutenant-General Charles Belzile, hosted us at the Museum for Peace at Caen, where we enjoyed a moving ceremony at the Canadian Memorial Garden. Major-General Richard Romer, chair of the organizing committee, flew surveillance Hawker Hurricanes during D-Day. Mr. Cliff Chadderton was part of the Royal Winnipeg Rifles, who were first to land on the beach, and we attended a memorial for them during the weekend. Mr. John O'Reilly from the House of Commons, who led our parliamentary delegation, and Ms. Paddy Torsney were both mentioned in the Prime Minister's speech.

The Minister of National Defence not only made it possible for our parliamentary group to attend with those mentioned by the Honourable Senator Atkins in his statement, but he also made it possible for various others to attend, including the Neil Michaud Choir from Moncton, New Brunswick; the Regimental Band of the Queen's Own Rifles of Canada; the Royal Canadian Legion Pipes and Drums; the Calgary Police Service Pipe Band; the Ontario Royal Canadian Legion Pipes and Drums; the Edmonton Police Service Pipes and Drums; the Pipes and Drums of Lindsay, Ontario; and the Regimental Band of the Royal Winnipeg Rifles. All those groups helped to contribute, along with the Royal Canadian Mounted Police, members of the Royal Canadian Legion, representatives of the Royal Military College and our parliamentarians.

One honourable senator, who was mentioned by Senator Atkins and whose absence was noted during my statement on Monday, was the Honourable Senator Wiebe. Senator Wiebe had the opportunity to stay on and attend a service at the British Cemetery in Paschendale for three Canadian soldiers who had been discovered during an excavation. A special ceremony was held to bury those soldiers. The gravesite will be marked "A Canadian Soldier" because the three soldiers could not be identified.

It is extremely important for us to be represented at this kind of ceremony, honourable senators, and we thank Senator Wiebe for attending. We also thank the Minister of Veterans Affairs for making it possible for us to attend.

ROUTINE PROCEEDINGS

SPECIFIC CLAIMS RESOLUTION BILL

REPORT OF COMMITTEE

Hon. Thelma J. Chalifoux, Chair of the Standing Senate Committee on Aboriginal Peoples, presented the following report:

Thursday, June 12, 2003

The Standing Senate Committee on Aboriginal Peoples has the honour to present its

FOURTH REPORT

Your Committee, to which was referred Bill C-6, to establish the Canadian Centre for the Independent Resolution of First Nations Specific Claims to provide for the filing, negotiation and resolution of specific claims and to make related amendments to other Acts, in obedience to its Order of Reference dated Wednesday, April 2, 2003, has examined the said Bill and now reports the same with the following amendments:

1. Page 22, clause 47:

(a) Replace line 4 with the following:

(a) in relation to a specific claim that is before the Commission, to summon witnesses or to order production of documents;

(b) whether the claim and any other specific

(b) Replace line 7 with the following:

(c) any other issue that needs to be resolved

2. Page 24, clause 56: Replace line 1 with the following:

maximum of ten million dollars, based

3. Page 29, clause 76: Replace line 19 with the following:

considers appropriate. In carrying out the review, the Minister shall give to first nations an opportunity to make representations.

4. Page 29, new clauses 76.1 and 76.2: Add after line 32 the following:

76.1 The Minister shall, before making a recommendation under section 5 or subsection 20(1) or 41(1), notify claimants — which notification may be by ordinary mail sent to their latest known addresses — that they may, during a period that the Minister specifies of not less than 30 days after the date of the notice, make representations in respect of appointments to the office or offices in question.

76.2 (1) At no time shall a person who was appointed under section 5 or subsection 20(1) or 41(1) act for any party in connection with any specific claim in relation to which they performed any work or concerning which they obtained significant information during their term in office.

(2) Persons who were appointed under section 5 or subsection 20(1) or 41(1) shall not, within a period of one year after the end of their term in office, accept any employment with or enter into a contract for services with the Department of Indian Affairs and Northern Development or a first nation that had a pending specific claim — before the Commission or the Tribunal, in the case of the Chief Executive Officer, or, in the case of a commissioner or adjudicator, before the Division of the Centre to which the person was appointed — at any time during their term in office.

5. Page 30, new clause 77.1: Add before line 1 with the following:

77.1 During the period of one year after the coming into force of section 76.1, the reference in that section to “claimants” shall be read as a reference to “claimants under this Act of under the Specific Claims Policy of the Government of Canada”.

Your Committee also made certain observations, which are appended to this report.

Respectfully submitted,

THELMA J. CHALIFOUX
Chair

(For text of observations, see Journals of the Senate, page 934.)

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Chalifoux, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

• (1340)

BUDGET IMPLEMENTATION BILL, 2003

REPORT OF COMMITTEE

Hon. Lowell Murray, Chair of the Standing Senate Committee on National Finance, presented the following report:

Thursday, June 12, 2003

The Standing Senate Committee on National Finance has the honour to present its

SEVENTH REPORT

Your Committee, to which was referred Bill C-28, An Act to implement certain provisions of the budget tabled in Parliament on February 18, 2003, has, in obedience to the Order of Reference of Wednesday, June 4, 2003, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LOWELL MURRAY
Chair

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

Hon. Sharon Carstairs (Leader of the Government): This bill shall be read the third time at the next sitting of the Senate.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

ELEVENTH REPORT OF COMMITTEE PRESENTED

Hon. Lorna Milne, Chair of the Standing Committee on Rules, Procedures and the Rights of Parliament, presented the following report:

Thursday, June 12, 2003

The Standing Committee on Rules, Procedures and the Rights of Parliament has the honour to present its

ELEVENTH REPORT

Pursuant to its authority under Rule 86(1)(f), your Committee is pleased to report as follows:

That the Senators Attendance Policy be amended by replacing subsections 5(2) and (3) with the following:

Medical certificate

(2) For each consecutive sitting day in the session beyond six to be registered as a day of illness, a medical certificate must be submitted to the Clerk; the certificate may serve for one or more sitting days within a period of up to three calendar months.

Subsequent certificates

(3) Where a Senator has submitted a medical certificate, all absences for illness during the following twelve calendar months for a period beyond six consecutive sitting days must be substantiated with a certificate to be obtained from a medical doctor designated by the Clerk; the certificate may serve for one or more sitting days within a period of up to three calendar months.

LORNA MILNE
Chair

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

Senator Milne: Honourable senators, with leave, this report shall be taken into consideration later this day.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: With leave of the Senate and notwithstanding rule 58(1)(g), it is moved by the Honourable Senator Milne that this report be taken into consideration later this day. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report placed on the Orders of the Day for consideration later this day.

[Translation]

MERCHANT NAVY VETERANS DAY BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-411, to establish Merchant Navy Veterans Day.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

Hon. Fernand Robichaud (Deputy Leader of the Government): Two days hence.

[English]

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, perhaps we could have leave to consider this bill at the next sitting of the Senate.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

[Senator Milne]

On motion of Senator Robichaud, bill placed on the Orders of the Day for second reading at the next sitting of the Senate.

NATIONAL SECURITY AND DEFENCE

COMMITTEE AUTHORIZED TO MEET
DURING SITTING OF THE SENATE

Hon. J. Michael Forrestall, Deputy Chairman of the Standing Senate Committee on National Defence and Security, with leave of the Senate and notwithstanding rule 58(1)(a), moved:

That the Standing Senate Committee on National Security and Defence have power to sit at 6 p.m. Monday, June 16, 2003, even though the Senate may then be sitting and that Rule 95(4) be suspended in relation thereto.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

[Translation]

OFFICIAL LANGUAGES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE
TO STUDY OFFICIAL LANGUAGES COMMITMENTS
OF FEDERAL DEPARTMENTS

Hon. Jean-Robert Gauthier: Honourable senators, I give notice that, on Monday June 16, 2003, I will move:

That the Standing Senate Committee on Official Languages be authorized to examine and report, before November 28, 2003, on official-languages commitment which federal departments were to undertake in terms of senior management accountability, language training partnerships, and the right to work in the official language of one's choice.

[English]

QUESTION PERIOD

HUMAN RESOURCES DEVELOPMENT

BOVINE SPONGIFORM ENCEPHALOPATHY—
AID TO BEEF INDUSTRY WORKERS

Hon. Leonard J. Gustafson: Honourable senators, in explaining why the government has not yet announced a package for Canada's beef industry, the Leader of the Government in the Senate has stated that we do not yet know the full extent of the damage that has been done to the beef industry as a result of the BSE scare.

Earlier this week at the western premiers conference, premier from Canada's western provinces came up with a figure of \$400 million for potential aid for Canada's cattle industry. Since it is a known fact that the government is also engaged in

some initial number-crunching to determine the size of any potential aid package, could the Leader of the Government in the Senate please tell us what her government's response is to the figures put forward by the premiers? Are the western premiers on the same page as the federal government?

Hon. Sharon Carstairs (Leader of the Government): I am sure the honourable senator would not want me to start a federal-provincial-territorial battle on the floor of the Senate about those figures versus our figures, or some other mythical figures.

I can inform the honourable senator that the Minister of Agriculture will be meeting tomorrow, in Vancouver, with his counterparts in agriculture from the provinces and the territories. Obviously, the subject of BSE will be high on their agenda.

• (1350)

Senator Gustafson: Canadians who work in the beef industry do not have the luxury of waiting for an extended period of time for an aid package to emerge. These points were underscored by the Canadian western premiers.

Since we have no idea when our trading partners will reopen their border to Canadian beef, any aid package must have the flexibility to evolve with this uncontrollable circumstance. As well, it must work to effectively alleviate detrimental effects of the trade ban on Canada's beef industry on an ongoing basis. After all, some estimates state that for every day the trade ban is in place, the Canadian beef industry is losing \$11 million.

Senator Carstairs: Question?

Senator Gustafson: The question is, what assurances can the Leader of the Government in the Senate give us that the aid package promised by this government will be designed in a way that will respond to all these factors?

Senator Carstairs: Honourable senators, as you know full well, the number one priority of the Minister of Agriculture is to get that border reopened. The hope is that we will have it reopened sooner rather than later. The government is well aware of the effects that this situation is having on the industry. That is why the minister responsible for HRDC has put in place some work-sharing initiatives in Saskatchewan. That is why those eligible for EI have had their claims processed with speed. We are also aware that many people do not fit into those systems, and that the needs of those individuals must be addressed.

The honourable senator knows that the farmers who have had animals destroyed will receive compensation up to \$2,500. Many factors will have to be taken into consideration, but I assure the honourable senator that all aspects will be considered. I will make sure that his representations to me today are factored in, if indeed those issues are not already on the table.

Senator Gustafson: I certainly appreciate the answer of the government leader. Is the government aware of the broad impact that the mad cow disease scare is having? This scare is affecting truckers, process workers, farmers, of course, and feed lot

operators who are in very difficult positions, and even the service industries in these communities. I have been speaking to some honourable senators on the other side of this house who were out visiting in those areas, and they know the situation is very serious.

I request that the Leader of the Government look at this situation, and I am pleased to hear that she intends to do so.

Senator Carstairs: I thank Senator Gustafson for his question. Those who have not necessarily had direct dealings with the cattle industry sometimes do not understand the implications and far-reaching effects, right across the country. For feed lot operators, for example, not only is it costing them \$2.50 per cow per day, but those cows are putting on weight, which in fact reduces the value of that particular cow because it is always slaughtered at the optimum time. The problem is very complex, and I can only reassure the honourable senator that the government is looking at all aspects of that situation.

Senator Gustafson: I appreciate that, and I do want to say that it was drawn to my attention that even the feed industry, the coarse grain industry, is affected because of the problems they are facing. I am pleased to hear that the government is aware of that situation.

CITIZENSHIP AND IMMIGRATION

IMMIGRATION AND REFUGEE BOARD— ALLEGATIONS OF BRIBERY

Hon. David Tkachuk: Honourable senators, my question is a follow-up to the one I posed the other day concerning allegations of bribery involving the Immigration and Refugee Board. The RCMP has asked Justice Minister Cauchon to provide written consent for Quebec Crown prosecutors to lay charges of judicial bribery against judges involved in the scandal at the Immigration and Refugee Board. This is a serious charge that carries a 14-year jail sentence.

The Quebec Crown prosecutors had told the RCMP that they would not be seeking consent from the federal minister for this particular charge, intending, instead, to lay less serious charges carrying shorter jail terms. Understandably, the RCMP would like these crimes to be punished to the full extent of the law, and is therefore pushing for the minister to give his consent. What is the status of the RCMP request?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the criminal courts of this country, as the honourable senator knows, are administered by the provinces. They are not administered by the federal government. The federal government does not direct the activity of Crown prosecutors in any province other than in some circumstances where federal Crown prosecutors handle special drug-related charges. In all other cases, the prosecutions are directed by the provinces.

The Justice Minister is following all of the rules available to him. He has made it very clear, and public, that he wants these charges laid.

Senator Tkachuk: Honourable senators, could the Leader of the Government tell us if any other RCMP investigations are currently underway, involving the Immigration and Refugee Board?

Senator Carstairs: Honourable senators, I cannot give that you information. The RCMP does not inform the Government of Canada when it is conducting investigations, nor do we want them to do that under the system in which we operate in this country.

Senator Tkachuk: I am not asking the minister to tell me the results, or even what the investigations are, but surely the minister would know if investigations are taking place that would have far-reaching implications in the department. The minister would be informed of those.

Senator Carstairs: No, senator, he would not be informed of those. You obviously do not understand the relationship between the Department of Justice, the Solicitor General, and the RCMP. The RCMP, quite frankly, do their work as they are appropriately mandated to do that work.

Senator Tkachuk: Honourable senators, I am asking because, since the Airbus scandal, there has been confusion about who knows what, and who does not know. While the minister or other department heads might not know of an investigation into a particular aspect, they would certainly know if further investigations are taking place with respect to the refugee board.

ACCREDITATION BARRIERS TO SKILLED IMMIGRANTS

Hon. Donald H. Oliver: Honourable senators, in spite of the many claims from Immigration Minister Denis Coderre, that Canada needs to attract more skilled immigrants, a new report claims that the federal government is doing very little to help these people obtain professional accreditation once they arrive here. All too often, these highly skilled and educated individuals end up in menial jobs because of accreditation barriers. The Conference Board of Canada reports that more than half a million Canadians would earn an additional \$4 billion to \$6 billion annually if they were able to use their skills here in this country.

My question is for the Leader of the Government in the Senate: How can the government reasonably expect to attract skilled immigrants to this country if we do nothing to help them, once they arrive here, in terms of their accreditation?

Hon. Sharon Carstairs (Leader of the Government): That is why I was very pleased, honourable senators, with the announcement just this week, of an immigration agreement between the Province of Manitoba and the Government of Canada, which specifically indicates that the Province of Manitoba will do everything it can to eliminate barriers to accreditation. That is the kind of agreement I hope the government will be able to work out with other provinces across the country because, as the honourable senator well knows, much of the accreditation barrier is posed by provincially-chartered associations.

Senator Oliver: In an effort to find solutions to this problem in its particular field, the Canadian Medical Association has suggested several initiatives to assist foreign-trained physicians who wish to practise in Canada. One of the proposals calls for an international medical graduate transition program to ensure that those who meet Canadian standards are treated fairly and have an opportunity to contribute to our health care system. Is the government considering such a proposal?

Senator Carstairs: Honourable senators, it is not for the Government of Canada to consider such a scheme. As you know, every doctor is registered in the province in which that doctor will be practising. For example, the Manitoba Medical Association would accept the recommendation of the Canadian Medical Association, and the proposal could move forward.

One of the big difficulties that I can express to the honourable senator with respect to physicians is the fact that many of them must serve a year or two of internship in order to be eligible to practise in the province to which they have moved. However, if the number of internship positions is limited to the number of medical school graduates in any one given year, then, of course, there will be no additional opportunities for foreign-trained physicians to go through that internship program.

• (1400)

Many provinces, including Manitoba, are now opening additional internship programs to ensure that the qualifications of such physicians are equivalent to the qualifications of Canadian-trained physicians, which will make them eligible to practice medicine in the province in which they live.

FOREIGN AFFAIRS

AFRICA—2002 G8 SUMMIT— COMMITMENTS TO PEACE AND SECURITY

Hon. Michael A. Meighen: Honourable senators, prior to our recent commitment to the Congo, Canada had a total of 27 peacekeepers in all of Africa. Now we have some 57—57 for a continent about which Paul Knox wrote in *The Globe and Mail* last week:

Measured by the number of human beings at risk, Africa's crisis dwarfs all others. Yet...it demands far more attention than it gets.

On Tuesday, in this chamber, the Leader of the Government explained, in response to my question on peacekeeping in the Congo:

Given the number of very difficult situations in the world and the size of our forces, it is clear that it is not possible to have them in every theatre of this kind of activity.

Indeed, only last month, the Minister of National Defence ruled out any significant increase in the size of Canada's army, this in spite of a report in the newspaper today that the Chief of the Defence Staff says our commitment to Afghanistan virtually eliminates the possibility of any other major commitments for 18 months.

How does the government expect to live up to its commitments to African peace and security, which it made at the G8 summit last year, when it refuses to beef up our military forces in order that we can contribute more meaningfully to peacekeeping on that continent, or are we only paying lip service to those commitments?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the honourable senator asked a question the other day, to which I will not be able to provide an answer. He asked for the rules of engagement. The rules of engagement are never released. They are kept for security purposes, and therefore I will not be able to provide him with the rules of engagement in the area of the Congo.

As to the specific question with respect to peacekeepers in Africa, obviously, peacekeeping is only one facet of a government's policy toward, in this case, a whole continent. Canada, through its \$500 million Africa Fund, has led the way with the G8 nations to get them to recognize their combined responsibility to the continent of Africa.

NATIONAL DEFENCE

CONGO—DEPLOYMENT OF PEACEKEEPING TROOPS— RULES OF ENGAGEMENT

Hon. Michael A. Meighen: Honourable senators, I accept, at face value, the leader's response that the rules of engagement are a matter of security. However, can she at least assure me that our military personnel, who are serving there with the French forces under French rules of engagement, will be made aware of those rules of engagement?

Hon. Sharon Carstairs (Leader of the Government): When troops enter into any theatre, their officers and commanders are informed of the exact rules of engagement, but the public is not.

LIBERIA—DEPLOYMENT OF PEACEKEEPING TROOPS

Hon. Michael A. Meighen: Honourable senators, I suppose we will be able to guess fairly accurately what the rules of engagement are, by the conduct we will observe over the months to come and by how our troops respond to the activities with which they will be faced.

Have we been approached by the UN with regard to a possible peacekeeping effort in Liberia, where conflict is once again breaking out?

Hon. Sharon Carstairs (Leader of the Government): As honourable senators know, the Canadian government is party to the United Nations refugee policy with respect to Liberia. However, as to direct help to Liberia at this time, to my knowledge, no direct approach has been made.

REPLACEMENT OF SEA KING HELICOPTERS— TIMING OF DELIVERY

Hon. J. Michael Forrestall: Lo, honourable senators, June 11 has come and gone and still no helicopter soon.

During, what I describe as the damage-control press conference of June — although the leader differs with me, as is her privilege — on the Maritime Helicopter Project, the Chief of the Defence Staff stated:

So we are anxious to replace the Sea King as soon as we can.

Can the minister tell this chamber why the CDS made this statement when the Department of National Defence had, only days earlier, stated that it would not accept delivery prior to 48 months after the contract award and had repeatedly stated that no incentives would be provided for early delivery under lowest price compliance?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I cannot think of anyone who would like to see the Maritime Helicopter Project come to its final awarding stage more than I, if for no other reason than I would not have to continue answering questions about it in this chamber.

In terms of the accepted delivery phase, as the honourable senator knows, we always have a timing of delivery of major purchases so that pilots and support staff can be adequately trained to use the new piece of equipment to the highest standard possible.

Senator Forrestall: Honourable senators, can the Leader of the Government tell us why, during that same damage-control exercise, Paul Labrosse, the project manager, told journalist Manon Cornellier that it was due to industry feedback that the helicopter delivery would be delayed between 48 and 60 months after contract award, when one company had, as is public knowledge, promised first delivery for testing 35 months after the contract award?

Senator Carstairs: As the honourable senator knows, any piece of new equipment has a breaking-in period. Senator Forrestall and I would agree that the Cormorant is an excellent aircraft that is giving wonderful service. However, as he well knows, it had its own breaking-in period with some difficulties, some necessary repairs and some long-term training that was required. Flying any plane is a complex matter. Flying a helicopter is even more so, as Senator Forrestall is very well aware.

With regard to delivery dates, they will be determined by the Department of National Defence in line with their responsibilities to train people appropriately.

Senator Forrestall: Honourable senators, the government said 48 to 60 months afterwards and were not going to entertain delivery. There seems to be a number of inaccuracies here and perhaps a few omissions. Perhaps this was simply a case of a damage-control exercise that blew up in the government's face.

Indeed, Mr. Labrosse later told journalist Stephanie Rubec that the "earliest delivery date is predicated on a number of things. One, it's as early as they say they told us they could do it," "they" meaning industry.

Why would the project manager tell a journalist something that the project manager and the journalist knew to be absolutely wrong, since at least one competitor said they could do it in 35 months? There is a big difference between 35 months and 48 months, as even the government will admit. Every month we continue to fly those planes is another month of uncertainty for families, crew and anyone following the affairs of Canada's Armed Forces.

• (1410)

Senator Carstairs: Honourable senators, we are getting into a semantic argument. One industry spokesperson said it would take at least 35 months to produce a helicopter. The government has indicated, through DND, that operational requirements indicate that it would take 48 months at least. There is a testing period of approximately one year to meet the operational requirements before the helicopter arrives. We are now up to 35 months, plus 12 months, which is 47 months. We can split hairs about the remaining month, if my honourable friend wishes.

Senator Forrestall: If the government had not cancelled the EH-101, the personnel would be through the learning curve. They would be fully equipped. There would be backup equipment for good search and rescue in the Canadian North and on the extremities of Western and Eastern Canada. However, that breaking-in curve, the leader says, will not start until 48 months afterward. That is the problem. The learning curve could take one, two or three years, but it will not start until such time as the government decides on the equipment to put in place. That is my concern.

Senator Carstairs: The actual statement, as I understand it, was that 48 months are required before a new helicopter can enter service. That is not the time in which it may take to begin the training operations.

The honourable senator says, "Why did we not do it?" The answer is on the record: If we had not inherited a \$42 billion deficit, maybe we could have done it sooner.

Senator Forrestall: Honourable senators, I do not want misinformation out there. Would the minister ask these questions of the Chief of the Defence Staff? If he does not know, is there anyone in God's creation over there who does know? The project manager said that they would not accept delivery until 48 months afterward. We do not have the planes in our possession to start the learning curve. We will not have them until 48 months afterward. That is an observation more than a question, but if the Chief of the Defence Staff does not know, perhaps it is time we got someone who does know or who has the courage of his or her convictions.

[Translation]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table two delayed answers. The first one is a response to the question raised in the Senate on May 27, 2003 by Senator Keon, regarding severe acute respiratory syndrome; the second is a response to the question raised in the Senate on June 5, 2003 by Senator Kinsella, regarding bovine spongiform encephalopathy and the letter of a veterinary science employee to the Department.

[Senator Forrestall]

HEALTH

SEVERE ACUTE RESPIRATORY SYNDROME—RESPONSE TO NEW OUTBREAK

(Response to question raised by Hon. Wilbert J. Keon on May 27, 2003.)

It is not clear at this time how the 96-year-old man came into contact with SARS in the North York General Hospital.

An intense investigation is underway at this time to determine how this particular individual acquired the disease and the information will be made available to the Senator as soon as the investigation is completed.

Health Canada, Ontario Ministry of Health and Toronto Public Health as well as the U.S. Centers for Disease Control are participating in the investigation.

BOVINE SPONGIFORM ENCEPHALOPATHY— LETTER OF VETERINARY SCIENCE EMPLOYEE TO DEPARTMENT

(Response to question raised by Hon. Noël A. Kinsella on June 5, 2003.)

The disciplinary action involving Dr. Chopra was in no way related to his being one of the signatories on a letter about Bovine Spongiform Encephalopathy (BSE).

The letter that was sent to Dr. Chopra that was referred to in the media clearly outlined the reasons for the disciplinary action. The contents of the letter are confidential and protected by the *Privacy Act*, but the disciplinary action was not related to the BSE letter.

All staff have the opportunity to express their views through internal mechanisms. These individuals and other interested staff have the opportunity to exchange information, and discuss BSE-related issues internally.

A team of Health Canada scientists are working with specialists at the Canadian Food Inspection Agency (CFIA) in reviewing all relevant policies and practices, including those related to the use of rendered materials and animal feeds.

NATIONAL ACADIAN DAY BILL

MESSAGE FROM COMMONS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-5 respecting a National Acadian Day, and acquainting the Senate that they have passed this bill without amendment.

[English]

ORDERS OF THE DAY

PUBLIC SERVICE MODERNIZATION BILL

SECOND READING—ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Robichaud, P.C., for the second reading of Bill C-25, to modernize employment and labour relations in the public service and to amend the Financial Administration Act and the Canadian Centre for Management Development Act and to make consequential amendments to other Acts.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I wish to advise the house that Bill C-25 will be spoken to tomorrow. That will probably be the last speech the opposition will have at second reading on the matter.

Order stands.

[Translation]

CANADA ELECTIONS ACT INCOME TAX ACT

BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

Hon. Fernand Robichaud (Deputy Leader of the Government) moved the second reading of Bill C-24, to Amend the Canada Elections Act and the Income Tax Act (political financing).

He said: Honourable senators, the purpose of proposed legislation is to improve the transparency and fairness of Canada's electoral system and address the perception that corporations, unions and the wealthy exercise a disproportionate influence in our political system. The bill follows the Prime Minister's commitment of June 2002, in his excellent eight point action plan, to bring forward new legislation for political financing. This commitment was reiterated in the Speech from the Throne.

Bill C-24 builds upon existing political financial measures that exist both in Canada and elsewhere in the world. It also reflects the consultations held with the political parties, politicians and other Canadian stakeholders.

In recent weeks, the Standing Senate Committee on Rules and Procedures and the Rights of Parliament has heard 40 witnesses, mainly representatives of political parties, members of Parliament, political experts, and members of interest groups representing a broad range of opinions.

The committee carefully considered the bill and received some 212 amendments. Of that number, 81 were retained. The amendments made by the committee, and those added later at the report stage, have greatly improved the bill, while respecting its key principles.

I would now like to review the main elements of this bill. Under the present Canada Elections Act, only registered parties and candidates are required to disclose to the chief electoral officer the contributions they have received and the money they have spent. Other important participants in politics, namely the constituency associations and the leadership or nomination contestants, are not obliged to provide this crucial information.

As a result, the chief electoral officer has long been concerned about this lack of transparency. With Bill C-24, constituency associations, leadership and nomination contestants would, in future, all have to disclose contributions and expenditures.

The chief electoral officer would also publish the names and addresses of contributors who have given more than \$200. This new, stricter requirement for disclosure was well received for the most part, but some political parties fear that it places too heavy a burden on participants in the political process.

Others, however, have called for even stricter disclosure requirements and have asked that participants in the political process report more frequently on contributions they have received.

Certain recommendations approved by the committee are responses to the concerns that have been raised. For example, when parties organize fundraisers, they will not be required to issue receipts for donations under \$25. Originally, the bill proposed issuing receipts for any contribution of \$10 or more.

• (1420)

Another amendment accepted by the committee, which was designed to reduce the burden of the new disclosure rules, raised from \$500 to \$1,000 the threshold where leadership contestants must report contributions received and expenses incurred.

The bill was amended to allow electoral district associations that are already registered to continue to exist in a new riding if the old riding disappears under the Electoral Boundaries Readjustment Act. It also includes a procedure to allow other associations to register in advance so as to be prepared to begin their activities as the representation order comes into effect.

Political parties that receive quarterly funding — and I will come back to this later — will be required to submit quarterly reports on contributions received, starting January 1, 2005. This new requirement is a response to the request for more frequent reporting.

Disclosing services that are necessary for a transparent and fair electoral system does not suffice to correct the perception that corporations, unions and the rich exert undue influence over politicians.

Under this bill, corporations, unions and associations will no longer be able to contribute funds to registered parties and leadership contestants.

There will be a small exception, since corporations, unions and associations would be permitted to contribute a maximum of \$1,000 per year to all contestants, riding associations and nomination contestants of a registered party. This exception recognizes both the importance of small contributions at the local level, given directly to contestants, and the role businesses and unions play in their communities.

The committee has made important amendments to these provisions. Corporations, unions and associations would be authorized to make supplementary contributions up to \$1,000, if a second election were to occur in the same year in the same riding.

Moreover, corporations, unions and associations would be permitted to contribute another \$1,000 to contestants who obtain their party's nomination, if their first contribution were made to a contestant who lost in the same riding.

The bill would place a limit of \$5,000 per year on contributions by an individual to a registered party, to all riding associations and nomination contestants. Individuals may also contribute \$5,000 to a contestant for the leadership of a party and to independent contestants in an election.

The committee agreed to lower the initial limit from \$10,000 to \$5,000, in response to a general feeling that it was too high to be able to really correct the perception of undue influence.

The bill provides that all the limits would be indexed to keep pace with inflation. The \$5,000 limit is a good balance between the need for financial contributions in a healthy electoral system and the goal of removing the impression of undue influence on those who participate in politics.

The committee accepted other important amendments about contribution ceilings. Thus, a contestant would be permitted to contribute an additional \$5,000 to his or her own campaign. In addition, paid leave given to an employee standing as a contestant would not be considered as a contribution by the employer during the electoral period. In addition, annual party membership fees of \$25 or less would not be considered a contribution.

The bill would set nomination campaign expenses for nomination contestants at 20 per cent of the limit that was allowed for a candidate's election expenses in that electoral district during the previous general election. This limit has decreased from 50 per cent to 20 per cent, following an amendment passed by the committee.

This is an extremely important measure for contestants, who have long been demanding equal opportunity for all with regard to nomination campaigns. Obviously, the restriction on

contributions by corporations and unions and the limits on contributions by individuals will have a significant financial impact on political candidates.

As a result, the bill proposes various public financing measures to compensate for the shortfall that parties and contestants will experience. These measures are in keeping with the traditional methods used for the public financing of the federal and provincial electoral systems. Registered political parties are currently entitled to a refund of 22.5 per cent of their election expenses. This percentage would increase to 50 per cent.

Furthermore, following an amendment passed at the report stage, this refund would increase to 60 per cent for the next election alone, so as to ensure the transition from the old system to the new. The definition of election expenses eligible for a refund would be updated and broadened to include expenditures on polling and the expense ceiling for refunds would be increased accordingly.

Candidates, who are currently are entitled to a 50 per cent refund of their election expenses if they obtain at least 15 per cent of the votes in their riding, would now be entitled to this refund if they obtain at least 10 per cent of votes.

This change reflects the reality of our multi-party system and would allow more candidates to receive a refund after a general election. Furthermore, as the result of an amendment adopted at the report stage, refunds of nomination expenses would increase from 50 per cent to 60 per cent. The registered parties would be entitled to an annual allowance of \$1.75 per vote, cast for them in the previous general election, to be paid on a quarterly basis.

A certain number of the report stage amendments relate to this allowance. It increases from \$1.50 per vote, as was initially proposed, to \$1.75. It would be indexed from now on.

• (1430)

The Receiver General for Canada would be authorized to pay part of this allowance to provincial or territorial divisions of the party, the leader of the party willing. As a transition measure to help the parties, the 2004 allowance will be paid to the parties in a lump sum payment, as soon as possible after the act comes into force. It is the citizens who are the masters of the democratic process. The allowance would make every vote count and reinforce the sought-after connection between the political parties and the voters.

It should be noted that Quebec has been paying a similar allowance to political parties since 1977. When the chief electoral officer of Quebec appeared before the committee, he indicated that this system works well and is accepted by Quebecers. When I say committee, of course I mean the committee at the other place.

The bill also proposes amendments to the Income Tax Act. The amount of a contribution to a registered political party eligible for a 75 per cent tax credit would go from \$200 to \$400.

The two other credit brackets will undergo an upward adjustment accordingly. The maximum tax credit for any contribution of \$1,275 or more will go from \$500 to \$650. The purpose of this increase is to encourage individuals to contribute more money more often, and to forge stronger ties between Canadians and the political system.

The measures contained in this bill reflect a tradition of public support for our electoral system. It is a well-debated approach that will result in a system based on transparency and equity, and change the perception that corporations, unions and people with financial means have undue influence.

By forcing politicians to no longer rely on the largest contributions but on public financing and support from average citizens, we will reinforce the trust that Canadians have in their political system.

I encourage you, honourable senators, to support this bill, which I believe is very important.

[English]

The Hon. the Speaker: I see honourable senators rising to ask questions. I will start with Senator Oliver.

Hon. Donald H. Oliver: Honourable senators, since I have more than one question, I will ask them at once, if I may.

First, could the honourable senator tell us the number of days the committee in the other place had to hear witnesses on this important piece of framework legislation designed to improve the transparency of Canada's electoral system?

Second, could the honourable senator tell us whether this \$1.75 for each vote, based upon the previous election, is payable quarterly each year following the year 2004? Does this mean that in the year 2005 each and every political party will receive four payments a year based upon the previous year's election results at the rate of \$1.75 for each vote?

Senator Robichaud: If this bill is passed by this house, it is due to come into effect in January 2004. The political parties will receive a lump sum for that year. However, in 2005 they will receive quarterly, and I do not know if they can be called contributions or payments, based on the \$1.75 received in the previous election.

Senator Oliver: If there is a four-year period from that election, does it mean that each and every calendar year there will be four more quarterly payments made each and every year?

Senator Robichaud: Yes, that is what I understand the bill does.

In answer to the honourable senator's first question concerning the number of days the bill was in committee in the other place, I do not know. However, I know that the committee heard from 40 witnesses, some of whom represented political parties, some of whom were members of Parliament, political scientists and members of different groups of interest.

Senator Oliver: Is there any minimum threshold in this legislation for which a Canadian political party cannot go below in terms of the amount of money from the public purse to maintain it as a political party? For instance, if a party had 15 members and another party had 115 members, is there any minimum limit of money that a political party would receive from the public purse to maintain itself as a political party?

Senator Robichaud: Yes, there is a limit. I would not want to give an answer right now because I am not sure it would be correct, but there is a limit.

Senator Oliver: There are ongoing administrative expenses that all parties would have, in order to prepare for elections and so on, beyond which they should not have to go out of existence because they were not receiving a basic, minimum amount of money. There is a basic minimum threshold, is there?

Senator Robichaud: Yes, there is, provided a political party is registered. To be registered, there are also certain thresholds.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I wish to make a comment. I am one of those who objects to this massive injection of taxpayers' funds to substitute for private funds, which I think have done a remarkable job in keeping political parties afloat. I object to the comments of the Deputy Leader of the Government who at least three times used the word "perception"; that there is a perception out there that union funds and corporate funds have undue influence on legislators. There is no question those funds are given to highlight a cause, but I think it is not only insulting to the contributors but also to the recipients of those funds to have them seen as being given solely to gain influence.

I have been in politics long enough to have received funds at the municipal, provincial and federal levels. I do not think I am alone in saying that, while I welcome those funds, they have had no influence on decisions that I have been called upon to take at any of those three levels of government. Thus, I object to the introduction of the word "perception." If there were proof that those funds were such a heinous contribution with such disastrous results on our legislative process, then I might be more sympathetic to this bill.

If the Liberal government feels so strongly that corporate and union funds should no longer qualify as contributions to political parties, how is it that Liberal fundraisers as of yesterday were still collecting funds and ignoring totally the limitations imposed by this bill? Why are they not, right now, morally bound to respect the limitations of this bill? Instead the Liberal Party, and other parties I am sure, is soliciting funds in total disregard of the bill before the Senate.

[Translation]

Senator Robichaud: Honourable senators, I agree that different interpretations can be given to the word "perception." In using that word, my intention was not in any way to attribute ill will to those making the donations and infer they were not trying to support the political process.

• (1440)

I think that all benefited to some extent from these donations.

There is a perception, which is often unfounded, that those who make generous contributions have the ear of their MPs, whatever their stripes.

I have been a member of Parliament, and I do not believe it works that way. Still we heard people say unthinkingly: "Oh, we must pay attention to him; he has made large contributions." This is definitely not what I meant to say or even to suggest.

I do firmly believe that there is a perception, in some people's minds, that contributions have an influence. Why does the Liberal Party — and I am sure the other parties do as well — continue to solicit funds from corporations, associations or unions? I think that until the new legislation comes into force, the parties still need to be able to operate. There cannot be any period during which no contributions are made.

I think that everyone is well aware of the situation of political parties. They are seldom rolling in surpluses. They must continuously strive to make sure that their fund has working capital in it to maintain a permanent staff.

[English]

Senator Lynch-Staunton: As my final comment, it is quite obvious to me that the deputy leader is contradicting himself. He is saying there is a perception out there — not a reality, but a perception — that he or she who gives a significant amount has the ear of whoever. That is all based on rumour and innuendo. It is a false perception. We have yet to hear of a concrete case where a significant contribution has had an influence on legislation. That is what I want to hear.

In the United States, we know of the excessive amount of monies spent on election campaigns. We know of the excessive lobbying that goes on in Washington. By the way, they are called "lobbyists" because they are in the lobby of the Congress; they are there swarming all over the legislators; they are even in the committees, helping to write legislation.

Unfortunately, that perception of corruption has spilled over into the thinking of some people in this country, and we are suffering from that. However, that does not happen here. If it does, I have not seen it. I regret that we are treating corporations and unions and moral persons in this way. We are telling them that, "For years, we have benefited from your contributions to the political process. Now, suddenly, because there is a feeling out there that what you are doing is perceived to lead to undue influence, we are cutting you off without even a thank you." I think that is morally repugnant.

My final question has already been answered, and that is why I said there was a contradiction in the deputy leader's explanation. He insists on this perception but says we still have to collect from these people to act as a bridge before we get into the slush fund allowed by the General Revenue Fund of the Government of

Canada. If the Liberal government were serious about its feelings on the impact of corporate and union funds, the Liberal Party would say right away, "We do not want them any more." They could have said so years ago but, no, they say instead, "We will continue collecting as much as we can until the day this bill goes into effect." That is what I find most reprehensible about this whole approach to the question of campaign funds.

[Translation]

Senator Robichaud: The Honourable Leader of the Opposition has supported my use of the word "perception." It would appear that in the United States there has been some influence brought to bear. The Leader of the Opposition says that people may feel that the same thing happens here. That is exactly what a perception is: people believe a situation exists, but in fact it does not.

We are convinced that we have a progressive bill, so why have we not decided to stop canvassing companies and associations?

We are not the only ones to approach associations and unions. I think this would have unduly punished the parties, which do after all have to have financing until the bill comes into effect and they can count on financing to be distributed to them regularly, so that they may continue to operate and have permanent staff.

[English]

Hon. Leonard J. Gustafson: My question relates to the fairness of the democratic process. If one were to run as an independent, would he be able to have the same expenditures, the same income, as one who is part of a registered party?

Senator Robichaud: Yes, he would, as long as he meets the requirement. I think the minimum threshold would be to receive 5 per cent of the vote expressed at the riding level, if he is an independent in a certain riding.

Senator Lynch-Staunton: If he has not run before, he gets nothing.

Senator Gustafson: Do these regulations relate only to the time after the writ is dropped? I will explain myself. Under the old system, when I ran, a certain amount of money could be spent. However, if you spent money before the writ was dropped, that money was not included. That is going back a few years.

Senator Robichaud: Honourable senators, if you run as an independent, you will be allowed to receive contributions. The maximums are \$5,000 for an individual and \$1,000 from companies or other associations. Once an election is held, you will be receiving, under the provisions, reimbursement of electoral expenses. You will receive then those contributions, so you are not left out in the cold.

• (1450)

Senator Gustafson: What is the writ period now, 31 days? It used to be 61.

[Senator Robichaud]

Senator Robichaud: Forty-five.

Senator Gustafson: If monies are raised before the writ is dropped, is it included in the monies raised or spent after the writ is dropped? It used to be that we went out and spent money before the writ was dropped so we could have a bigger budget.

Senator Robichaud: The contributions are based on an annual basis, so money can be raised through the whole year, but the maximum for individuals is \$5,000 per year and for companies and unions it is \$1,000 per year.

There are exceptions where a company or a union contributes to a candidate seeking the candidacy but who does not win the nomination. In that case, another contribution can be made to the nominee or the person who wins the nomination for that riding.

[Translation]

Hon. Pierre Claude Nolin: Honourable senators, I would like to get back to the issue of discrimination against contributions by corporations. By virtue of what principle do you discriminate only at the national level, and not the local?

Senator Robichaud: I do not understand that it is only national. It needs to apply at all levels. People can contribute in a constituency provided their total contribution for the year, for all contestants or associations of one party, do not exceed the ceiling of \$1,000.

Senator Nolin: There is total discrimination as far as contributions by corporations including labour organizations at the national level. Discrimination in that corporate contributions to a political party are not allowed at the national level. You have spoken to us of the people's perceptions and you will agree that this is utterly inadequate. You will need to give us far more food for thought than just to speak to us of what Canadians perceive because of the well-documented phenomenon in the United States.

My question is the following: At the national level, there is complete discrimination and at the local level, there is none. Why?

Senator Robichaud: I like to use the word "perception." I think that the perception of the honourable senator is different from mine. The honourable senator said that I said that the perception was based on what is happening in the United States. I simply said that the Honourable Leader of the Opposition referred to practices that occur south of the border and that perhaps some Canadians believe that those same practices occur here. I simply said that these practices had helped make the perception a reality. Just because it is there, this perception does exist.

Senator Nolin: Senator Robichaud did not answer my question. Forget the word "perception." You are establishing a principle of discrimination. You said a complete ban; there will be no corporate contributions to parties at the national level. You explained all that. We have heard about this *ad nauseam* since the

bill was introduced. Why refuse corporate contributions at the national level and allow them at the local level?

Senator Robichaud: Honourable senators, I do not see why you say there is discrimination. Contributions can be made to a party, an electoral district association or a territory. Political parties are present across Canada and corporations can make contributions to these parties. Parties will receive contributions from the Treasury based on their results from the last election. These funds are operating funds and may be used to do the work that political parties do between elections: holding conventions, studying issues of the day, developing policies and programmes and setting up their election platforms. They will be able to continue this. They will have the funds required to do this. At least, I believe they will.

Senator Nolin: Let me take another approach. For example, a public corporation with a board of 20 directors will be no longer be permitted to contribute \$100,000 to the Liberal Party of Canada; however, each director could contribute \$5,000, the result is exactly the same. How do you deal with this perception?

Senator Robichaud: Honourable senators, people really should not say things that are not true. I do not want to make any accusations, but this bill states that a corporation cannot use its directors to make backdoor contributions. Whether they are company directors or not, they can make a maximum contribution of \$5,000 as individuals. I do not believe that we will be able to prevent them from doing so, therefore it will be allowed. However, corporations will be prevented from doing this. Nor will it be possible for individuals to use corporate funds or a corporate distribution system to try to circumvent the law. In fact, the bill contains clauses that seek to prevent such behaviour.

Senator Nolin: Were you inspired by what has been happening in Quebec since 1977? You mentioned the chief electoral officer of Quebec. When he appeared before the committee, was there any mention of highly illegal but widespread practices in Quebec, whereby corporations in Quebec use their board of directors or their senior executives to accomplish what is otherwise prohibited by law?

Senator Robichaud: Honourable senators, it is hard for me to comment on this question. If such a practice occurs in certain places, it is against the law. Unwarranted statements can be made. This legislation, however, would not permit it.

Senator Nolin: A former chief electoral officer of Quebec, having retired, very honestly and very publicly stated that, in Quebec, many businesses got around the principle of the act by doing that.

I want to thank the government for having accepted the amendments that I had introduced the last time we reviewed the Elections Act. For a long time now, I have supported the chief electoral officer, who wanted to see more control over riding association finances. I congratulate you for agreeing with me.

And what is the status of affiliated associations?

• (1500)

I mean, for instance, that the various political parties, including yours and mine, support about one hundred campus associations in universities and colleges across Canada. This is a very effective way to stimulate political activity among students in these educational establishments. Will these associations continue to exist? If they do, how will they be funded?

Senator Robichaud: I do not see why they could not continue to exist. How will they be funded? In many cases — I cannot speak for Quebec — some of these university or college associations operate in collaboration with the party they support, and there is an exchange of services. The party makes provision for these associations and their operations in its annual budget.

Senator Nolin: Allow me to ask the question in a different way.

[English]

The Hon. the Speaker: Honourable senators, I regret to advise that Senator Robichaud's 45 minutes have expired. Does he wish leave to continue?

[Translation]

Senator Robichaud: Honourable senators, I would like to ask leave to continue.

Hon. Senators: Agreed.

[English]

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

[Translation]

Senator Nolin: If the University of Ottawa Liberal Association wants to continue its activities after the bill is passed, will the party at the national level have to finance its activities? Will the Association be allowed to continue its fundraising activities within the university framework?

Senator Robichaud: If the fundraising is done on behalf of a political party for the purpose of financing political activities, it is the political party that will have to record the contribution, so that people may be given a receipt for their contribution.

Senator Nolin: If the contribution is less than \$25, it is not recorded.

[English]

Hon. Gerard A. Phalen: Honourable senators, I am curious about what would happen to a party that would receive a large vote in an election but fall short of the 12 seats required and end up with 11 seats. Would the party still receive funding of \$1.75 per vote?

Senator Robichaud: No, they would not receive the funding. If they fall short, they fall short.

[Senator Nolin]

Hon. Consiglio Di Nino: On this point, I have a question —

Senator Robichaud: I am told that the honourable leader does not think it is right; I stand corrected.

Senator Di Nino: Honourable senators, with all due respect, Senator Robichaud is incorrect. I agree with the honourable leader. The recognition of a party for the purposes of issuing tax receipts is under the Canada Elections Act and has nothing to do with whether the group has official party status in the House of Commons. From some very sad experiences and difficult times, I can speak to the position of the Progressive Conservative Party in 1993; and I can assure senators that we issued many tax receipts.

Senator Robichaud: I do not disagree, and this is why I wanted to quit while I was ahead.

Hon. Douglas Roche: Honourable senators, I want to return to the question of corporations, not from the point of view of perception but in terms of intention. What was the intention of the government in so limiting contributions by corporations? What benefit does the government expect the Canadian public to receive as a result of the reduced ability of corporations to contribute to the political process?

Senator Robichaud: I am not sure that I understand the question.

Senator Roche: Why did the government reduce the level at which corporations can make contributions to the political process? What is the benefit that the government thinks the public will receive as a result of corporations not contributing?

Senator Robichaud: The question of perception is before us again. If we were to limit the donations or the contributions of companies to a specific amount, it is believed that this would help to eliminate the perception that the contribution buys influence, which it does not. However, the perception does exist.

We are reducing the amount contributed by corporations, but we are also introducing a contribution from the public purse, whereby voters would, in a certain way, contribute when the party receives its financing quarterly after the bill comes into force. Those who vote would be contributing to the party rather than to the corporations.

Senator Roche: I thank the deputy leader. Does the government expect that corporations would then have less influence on and less access to the legislative process?

Senator Robichaud: By responding to that, I would be saying that they have a lot of influence in the first place, but that is only a perception. I do not think they would receive any less or any more. Business people have a certain influence and knowledge and they can offer counsel. I think politicians will continue to listen, which does not mean that they will be influenced or ready to accept anything. Those people will still be voting and contributing, not with a cheque but with their expertise and knowledge. Canadians will continue to participate in the political process.

Senator Roche: Honourable senators, it is the use of the word "perception" that has confused me. The deputy leader has more experience than I do in this process, but I would have thought that the making of legislation should be based on facts and not on perception.

How will this bill be handled, assuming it receives second reading? To which committee will it be referred and will there be a full range of witnesses? Does the deputy leader expect that a full range of witnesses will be called by the committee? What will be the time frame of the committee to complete its work?

Senator Oliver: That is a good question.

Senator Robichaud: Yes, it is a fair question. The honourable senator knows that a bill is referred to committee after it passes second reading, and we plan to send this bill to the Standing Senate Committee on Legal and Constitutional Affairs.

This committee, like any other committee of this house, does a thorough job. I do not expect any less with regard to this bill because it needs to be examined and considered to determine its intent and how it would be implemented.

• (1510)

I certainly look forward to the work that will be carried out by the committee on this bill in the very near future.

Hon. Marcel Prud'homme: Honourable senators, for 40 years I have never missed a meeting on electoral reform or redistribution reform. I went to court to change a district. I won. I was present and participated 100 per cent for 40 years at every meeting on redistribution.

I like the spirit of reducing the influence. I like the spirit of the bill.

I should publish how much it has cost to elect me with my strong opinions for my ten elections, for nine of which I ran. During the tenth election that I was a Liberal candidate, I came to the Senate. I think that the total cost of all my elections is no more than \$30,000. You can imagine how much I am in favour of restricting election expenses.

I am extremely concerned about opening a new can of worms on influence by allowing individuals \$5,000. I will give an example using no names. I remember someone who wanted to show how populist he was. He raised \$5,000 six times, from six individuals. He then made a bid to 500 people for \$10 each. That generated \$32,500, divided by 506, being the number of people who contributed.

Honourable senators may know of which member and ex-minister I speak. He looked like the most populist person. He had the greatest number of contributors, but we all knew the influence of the six people who each gave him \$5,000. I am concerned about that aspect.

I am less concerned about corporation donations, strangely. I would have preferred a bigger figure for corporations, but I will live with that.

I will raise the issue when I come to the committee about the immense danger of the influence on a local member who receives too many single donations of \$5,000, because these people will exercise more influence on that particular member than Bell Telephone, Bombardier or the five major banks.

By the way, this morning I attended the committee. They had a report in English only. I should have objected publicly. However, the message is delivered: It is unacceptable.

Having said that, do I understand well that the amount of \$1.75 is based on the number of votes cast at the last election? I will give an example. The Bloc Québécois received 1,377,727 votes without making any effort of any kind. They were merely sitting here in Ottawa, having Pepsi-Cola or champagne, as the case may be. They would get from the government \$2,341,002.02.

Do I understand the spirit of the bill? I would like to simplify, as I did with the gun control legislation, with the gun on one side and the bullet on the other side of the lock.

People in my district understand my sensitivity for the North. If you complicate matters, you lose yourself. In my case, getting older is getting easier to lose myself. I do not mind putting that on the record.

Honourable senators, do I understand the spirit? Do I understand well that the \$1.75 will apply?

If you sit all summer, I would be more than delighted, because I am alone. I would sit here in the chamber and have company. I am not a member of the committee, but I like this as much as some like golf. I like this; I will be there to contribute positively.

I have a book prepared already of questions and witnesses because this is my favourite subject. I fought like mad in the other chamber the Americanization of our institution. I do not like it.

Do I understand correctly that the \$1.75 per year is for the vote received at the last election? The Liberals received 5 million. My heart is still Liberal. The Conservatives were singing a hymn to come home.

In a nutshell, do I understand well, that the \$1.75 is per vote received last time? Or is it per year? I see the two ministers acknowledging with their heads nodding, but the nods are not registered in the minutes.

[Translation]

Senator Robichaud: I would like to answer the questions raised by Senator Prud'homme. Yes, all the parties will receive the \$1.75 allowance annually, based on the number of votes received during the last election. For the first year, they will receive a lump sum payment in order to facilitate the transition between the current system and the new system. All the parties will receive this payment. This contribution comes from the Canadian taxpayers — those who voted. The parties having received these votes are entitled to receive these contributions.

[English]

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I have two questions. First, if a corporation or a trade union makes a contribution of \$1,000, which is their limit, is that contribution and that limit attached to a donation to one party, or can they give \$1,000 to three different parties? In other words, could the total be \$3,000?

[Translation]

Senator Robichaud: The \$1,000 is a donation to a candidate, to an electoral district association or a provincial association. That amount applies to one party. There could also be a contribution to another party.

Senator Nolin: I misread the Quebec legislation.

Senator Kinsella: Am I to understand that, if there are five different parties, the corporation or labour union could give five times \$1,000, or a total of \$5,000?

Senator Robichaud: Provided these contributions are to representatives of different parties. It is very unlikely that this would happen. The legislation states that when a person has made a contribution to one nomination contestant and that person does not win the nomination — as often happens — another contribution can be made to the one who does get the nod. The purpose of this measure is to not unduly penalize those who want to participate in the electoral process.

[English]

Senator Kinsella: Honourable senators, my final question relates to the trade unions. Is it the intent of the government that the law provide that a trade union, notwithstanding how many locals it has, or certification orders from the appropriate labour relations board law it has received — that is, how many employees for which that union has exclusive bargaining responsibilities — can make only one \$1,000 contribution?

• (1520)

For example, if the Canadian Association of Carpenters, if such exists, has 15 locals, can each local make a contribution, or is it only the national organization that can make the contribution?

Senator Robichaud: It is my understanding that the \$1,000 is for this union, and all the locals are included in that.

Senator Kinsella: An established principle in the Rand formula provides that Canadians' right of freedom of association is reasonably limited when it comes to collective bargaining. He or she must contribute to the trade union that has been certified as the exclusive bargaining agent in a workplace but does not have to be a member of that trade union. Is the proponent of the bill not concerned that the trade union in this case would be making a political contribution, notwithstanding that the individual members of the union would be contributing to a political party that they would not be interested in supporting?

Senator Robichaud: I personally know someone who was a member of a union that was making contributions. They did not have a choice. That does not prevent that individual from making a contribution to the party of his choice.

Senator Lynch-Staunton: Did I understand the deputy leader to say that the \$1,000 limit is per district and not a total?

Senator Carstairs: Per party.

Senator Lynch-Staunton: Per party for what? Is the \$1,000 limit the total contribution that a corporation can make, or can it be \$1,000 here and \$1,000 there?

Senator Robichaud: It is an annual limit. It is a contribution of \$1,000 per party. It can be made at different levels, but it is all counted for that party nationally.

Hon. Serge Joyal: My question to the Honourable Deputy Leader of the Government is in relation to a Charter issue. Of course, this bill is fresh in this house of Parliament, and I have not had all the time I would have wanted to study it carefully. It is in relation to the proposed section 435.01(1). This is the section we were looking for in answer to the previous question by Senator Oliver, and it establishes the threshold. It states that the Chief Electoral Officer shall make an allowance payable to a registered party — so first it is a registered party — whose candidates for the most recent election receive at least — and this is the threshold — 2 per cent of the number of valid votes cast, or 5 per cent of the number of valid votes cast in the electoral district in which the registered party endorses a candidate. There are two thresholds.

I made that calculation last night, so it might need to be checked, but when one looks into the results of the last election and applies that threshold, one is able to determine which parties are included and which are excluded. The result is that the Communist Party is excluded, the Green Party is excluded, the Marijuana Party is excluded, the Marxist-Leninists are excluded, and the Natural Law Party is excluded. Those parties, according to the electoral act, are registered parties. They have to have 12 candidates.

The deputy leader will remember very well that the Standing Senate Committee on Legal and Constitutional Affairs dealt with the decision of the Court of Appeal of Ontario in the *Figueroa* case, which threw down the provisions of the Canada Elections Act that a party had to field 50 candidates to be registered. The court came to the conclusion that 50 were too many, and it is more than two. Following that, the government introduced an amendment and fixed the number at 12, which is the number in the present act.

The problem is that when we look into the amount of money that those registered parties, which are excluded under this provision of proposed section 435.01, would find themselves receiving, it would be nothing. Still being registered parties, they would be deprived of access to corporations and to financing of more than \$5,000. If we apply that criteria, they would have a diminishing amount of money.

According to section 15 of the Charter, every individual is equal before the law and is entitled to the same benefit under the law. I wonder if that aspect has been canvassed. The decision of the Court of Appeal of Ontario is under appeal at the Supreme Court level. It is clear in my mind that if we maintain the status of registered parties but deprive a party of access to public funds, which could be done, and at the same time you order them indirectly to have a diminishing capacity to raise money, we are inflicting or imposing upon them a condition contrary to the provisions of the Charter.

I know this question is complex, but it is very important because it raises a Charter issue. As my honourable colleague will know, the Charter is there to protect minorities. The decision of the Court of Appeal of Ontario in the *Figuroa* decision is clear. Canadian courts have always taken the approach of protecting the smaller party in their decisions reviewing the electoral act because the act was made for the large parties. That is understandable because it is done by parties that are represented in Parliament mainly. Small parties are not represented in Parliament, but they represent the views of Canadians who are entitled, under our Constitution, to freedom of speech, freedom of thought, freedom of association and to express their views.

Honourable senators, this is a complex question, a small question, but it is a question of principle. I think it is important in our review of the bill. I wanted to alert the deputy leader so that we had proper access to expertise from the Department of Justice to answer that question.

[Translation]

Senator Robichaud: Honourable senators, I agree with Senator Joyal that the matter he has raised is one of great importance. I also understand that bills must meet all requirements of the Canadian Charter of Human Rights.

However, for the committee to be able to address this matter strikes me as completely reasonable, and an approach that ought to be pursued in order to ensure that the bill does indeed comply with the Charter.

[English]

Senator Joyal: My last question is with regard to the amount of money that the Chief Electoral Officer is entitled to disburse from the public treasury and the amount of money that each and every party presently represented in the Parliament of Canada would receive.

• (1530)

I have the latest data available from the Web site of the Chief Electoral Officer, which are the results of the general election in 2000. I multiplied the figure there by the proposed 1.75 and concluded that the Bloc Québécois would receive \$2,066,999. According to the total contribution to parties that the Bloc Québécois declared for 2001, they received \$898,000. In other

words, there is a major discrepancy between what they raised in 2001 and what they will get from the treasury.

In the same year, 2002, the Canadian Alliance received \$4,788,000 in contributions. Under this formula, they would receive \$4,915,000, which is roughly the same, although they can still get \$1,000 per riding from corporations as well as \$5,000 from individual citizens. Therefore, that amount would increase, but at least they would receive, as a starting point, the same amount of money as they got in 2000.

According to the Web site, The Liberal Party raised \$12,469,000 and under the present formula would receive \$7,878,000. The NDP raised \$5,042,000. Under this formula, they would receive \$1,640,000, which is drastically less. The Progressive Conservative Party raised \$7,971,000, while under this formula they would receive \$2,350,000.

This formula of \$1.75 per citizen is a formula that seems to be equitable in principle, but when you apply it in practical terms to the parties, there is a major discrepancy for at least one party which was favoured by the formula. That is understandable, because it is a regional party that ran candidates in only one province.

Will the Deputy Leader of the Government investigate the analysis of this formula and explain to us at committee why a more graduated formula could not have been adopted that would have taken into account the number of votes as well as the number of ridings in which a party runs candidates?

When I apply the simple arithmetical formula of multiplying the total number of votes by \$1.75 and then dividing by the number of ridings in which candidates were run, I get a result much closer to what the party raised that year, because it is graduated. I find that this formula creates a distortion phenomenon: that is, the fewer ridings in which you run candidates, the more money you receive. At least, that is the way it looks on paper.

When the Deputy Leader of the Government comes to committee to help us understand the bill, will he explain what other formulas were proposed and why this one, which seems to cause a distortion with regard to one party, was preferred by the government?

[Translation]

Senator Robichaud: Honourable senators, I understand Senator Joyal's point of view. The bill proposed an annual contribution of \$1.50. When the committee looked at this issue — I have not looked at all the formulas they studied, but perhaps the committee could ask for information about that — they recommended increasing the contribution to \$1.75.

The situation has certainly been noted. Why this formula? At present, I cannot say why, but it is a question that should be looked into. The argument may be quite simple. It is necessary to find a formula that could, according to certain people, be discussed as if it did not represent what each party should receive.

I have already been told that the formula ought to be associated with the number of ridings in the country. That formula could introduce another formula that would reduce the contribution.

Why did we not go in that direction? I do not know. But I will try to find out.

[English]

Hon. Jeremiah S. Grafstein: Honourable senators, I thank the Deputy Leader of the Government in the Senate for being very sensitive to Charter issues. With regard to what Senator Joyal said, a fast reading of the bill raises the same question for me in a somewhat different way. In effect, does the formula discriminate among political parties, preferring those parties that are not national? In other words, are political parties discouraged from becoming national parties but, rather, to concentrate their efforts in a particular region in order to take advantage of the formula in the bill? If that is the case, as Senator Joyal suggests, is that a form of discrimination contrary to section 15, the equality provision, of the Constitution? I assume that we will be looking at that question as well, unless the Deputy Leader of the Government can respond now.

Taking this one step further, there is a very sensitive issue about freedom of expression based on the right of an individual, including an individual or person as encapsulated in a corporation. We have in this bill, as other senators have pointed out, a difference in treatment between a corporation and an individual. As a result, the rights of the corporation, under section 15, may be inhibited. As a matter of fact, that appears to be the objective of the legislation: to restrict and inhibit corporations from contributing and, therefore, excising the corporation's rights, if they have them, to freedom of speech or equality under section 15.

• (1540)

My question is: Has the Deputy Leader of the Government in the Senate satisfied himself that these questions were properly canvassed in the other place before this legislation was put into its final form, or is this a matter that we should be concerned about in our deliberations, to be satisfied that the constitutional requirements of this bill have been fully met?

[Translation]

Senator Robichaud: Honourable senators, in light of the comments made by the Honourable Senator Joyal, I agree that bills must meet all the requirements set out in the Charter. The committee will decide how to proceed; it is the committee's decision. I am not setting out guidelines, as it is not my job to do so. Only the Senate as a whole can do so in committee.

The committee will do as it sees fit in this regard. All the important issues will, I hope, be addressed. The witnesses who will be asked to appear will certainly be able to help us find the answers we are seeking.

I have no doubt that the committee will explore all these issues, such as if all the requirements have been met, and, obviously that no individual or group is discriminated against.

[Senator Robichaud]

[English]

Senator Grafstein: On the subject of equality of treatment, I was taken by what Senator Nolin said about the question of perception and what other senators said about the perception of influence with respect to corporations.

For what it is worth, in my experience, I have never really felt the influence of corporations but, from time to time, I have felt — and my friend Senator Prud'homme is smiling — I have felt the influence of individuals. Having said that, I felt it and responded to it. That is fair game. As can any senator in this chamber, I can handle myself when confronted with that sort of situation. However, is there not some concern that by treating individuals in a greater sense, by allowing them to spend more money than corporations, that is, in effect, handing more power to individuals as opposed to a particular corporation?

Senator Prud'homme: That is what I said.

Senator Robichaud: I do not think so, but this is my view.

An Hon. Senator: That is your perception.

Senator Robichaud: I hate to use the word "perception," because every time we do so, we somehow get into a debate that takes on a life of its own.

I hear what the honourable senator is saying, but it is a question of how you interpret reality in some cases, and this is where perception comes in.

Senator Oliver: My question is for the Deputy Leader of the Government. When making his original dissertation, the honourable senator told the Senate that under this new bill there will be changes made in what is and what is not an expense under the Canada Elections Act. In his dissertation, he said that under the present regime, if you have incurred polling costs or done research during the writ period, in the past that has not been considered an election expense. He indicated that amendments will be made to include that as an expense and that there will be a comparable amount of money given to political parties to pay for that sort of thing.

My first question is: What other items, other than polling, will now be included as election expenses that were not included before? Second, if a party were to spend \$2 million on polling research during a writ period, and spent that amount, but another party could only afford to spend \$200,000 on polling and research during a writ period, is there any inherent disadvantage to the smaller parties?

Senator Robichaud: I would like to ask the indulgence of the honourable senator so that I can further research the question. This is a very specific question. I would like to come back to him, either through the committee process where we can really explore that matter, or maybe in the later stages of this bill.

Senator Prud'homme: The deputy leader mentioned that the Standing Senate Committee on Legal and Constitutional Affairs is starting to organize its work, and will start hearing a series of witnesses. They are beginning with the Chief Returning Officer of Quebec. It could take time to do an appropriate job, as one expects the Senate to do.

Is the deputy leader under a deadline by saying that this must pass before the Senate adjourns or suspends? Could we not suspend and then, when the committee finishes its work, we could be called back? Is there a deadline that honourable senators might be informed of so that we will know what to expect and how to prepare for a good study of the bill?

[Translation]

Senator Robichaud: That depends on what the committee decides to do and which witnesses it decides to call. I think that this matter must be left to the discretion of the committee and its members. I would not like to impose or dictate which witnesses can be heard and which not. We would like Bill C-24 to be passed before the summer recess.

But, the committee will have all the time it needs to do its job, consider the bill and present its report. There is no doubt in my mind that, given the expertise in this House and the committee, the work will be done well and we will be able to meet the deadline.

[English]

Senator Kinsella: My honourable colleague Senator Prud'homme has made an interesting suggestion, which was to let the committee have sufficient time to do its study, as it deems appropriate, and let the Senate rise and be called back when the committee has completed its work. I believe that was the sense of Senator Prud'homme's question. I find that an interesting suggestion. Would the deputy leader share with us his views on that suggestion?

[Translation]

Senator Robichaud: I am being asked to perhaps provide, in a roundabout way, committee guidelines or to set our schedule.

• (1550)

Senator Prud'homme: Honourable senators, we have to be logical.

Senator Robichaud: Honourable senators, it is simple. When the committee receives the bill, it will take as long as it needs. Some would like to take ten months to do the work, while others would probably like to take a week. At some point, people always reach a compromise that allows the workload to be dealt with. The work is done and a report is tabled. That is where we come in, honourable senators.

Senator Prud'homme: Honourable senators, between now and ten months, let us compromise, and say three months.

On motion of Senator Kinsella, for Senator Angus, debate adjourned.

[English]

[Earlier]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in our gallery of Mr. David Webster, formerly of the Department of Indian and Northern Affairs, where he managed the Inuit Cultural and Linguistic Section for the past two years with Parks Canada, establishing two historic sites in Nunavut: one near Baker Lake the other near Arviat.

Mr. Webster is accompanied by his wife, Sally, son Peter, sister-in-law Janet Tagoona and her son, Dmitrius Tagoona. They are the guests of Senator Adams.

Welcome to the Senate.

SPECIFIC CLAIMS RESOLUTION BILL

AMENDED REPORT OF COMMITTEE PRESENTED

Leave having been given to revert to Presentation of Reports from Standing or Special Committees:

Hon. Thelma J. Chalifoux: Honourable senators, I wish to present a revised fourth report concerning Bill C-6. In the report presented earlier today, there was a typographical error in one of the proposed amendments. It must be corrected.

Concerning number 5, proposed clause 77.1, the fourth sentence should read:

"claimants" shall be read as a reference to "claimants under this Act or under the Specific Claims Policy of the Government of Canada".

The typographical error concerns the word "of" which should read "or".

I ask that this new report replace the one I presented earlier this afternoon.

The Hon. the Speaker: Is it agreed, honourable senators, that the corrected report replace the report that was placed with the Table earlier today?

Hon. Senators: Agreed.

The Hon. the Speaker: Copies of the revised report will now be distributed.

CANADIAN INTERNATIONAL DEVELOPMENT AGENCY BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Bolduc, seconded by the Honourable Senator Cochrane, for the second reading of Bill S-17, respecting the Canadian International Development Agency, to provide in particular for its continuation, governance, administration and accountability.—(*Honourable Senator De Bané, P.C.*)

The Hon. the Speaker: The Honourable Senator Roche wishes to speak to this item.

Does it help you, Senator Robichaud, that Senator Roche wishes to speak?

[Translation]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, this is the fifteenth day this item on the Orders of the Day has appeared on the Order Paper, and I had forgotten that Senator Roche had indicated his intention to speak. I am pleased that he will now speak.

[English]

Hon. Douglas Roche: Honourable senators, the Honourable Senator De Bané has given me his consent to speak.

Honourable senators, I wish to congratulate Senator Bolduc on bringing forward Bill S-17, which I support with enthusiasm. It is time for the Canadian International Development Agency to have a statutory basis. I commend the bill to all honourable senators.

For the better part of 30 years, I have been following CIDA closely, and have seen at first-hand the implementation of CIDA aid programs in many countries. I am not without my criticisms of CIDA, but at its best it does a superb job of lifting up the human condition.

In particular, I think of Bangladesh, a country I first visited in 1976, and where in recent years I have seen the remarkable development process of women helped by aid-sponsored education programs. Where CIDA has concentrated resources on NGO programs of community development, we have seen remarkable progress.

I also bring to this debate my background as Chairman of the National Advisory Committee on Development Education. Honourable senators are probably not familiar with this body because it was put out of business 10 years ago in another ill-considered move by government to save a few dollars at the expense of deepening public understanding about the great human crisis of endemic poverty.

I truly wish I could devote a whole speech to praising the positive accomplishments of development assistance, but I

cannot. I must deal immediately with the false economy of government cutbacks in development, including development education, that have reduced Canada's participation to an abysmal level.

The challenges posed by global poverty are immense. More than 1.3 billion people live on less than \$1 per day. Most live in countries unable or unwilling to provide them with the kind of social safety net we have been able to establish here in Canada. As a result, they are often unable to access basic education and health care, and must struggle just to feed themselves. The tragic outcome of this situation is that 30,000 children under the age of five die every day, most from preventable disease. With the gap between the rich and the poor continuing to widen, conditions for the poor are deteriorating.

Canada has long had a tradition of humanitarianism, of showing concern for the plight of the disadvantaged around the world. Why, then, have we virtually turned our backs on the poor? Over the past decade, Canada's official development assistance budget has been slashed precipitously and continuously, reaching a 30-year low in 2001. Several members of the Organization for Economic Cooperation and Development, namely, Denmark, the Netherlands, Norway, Sweden and Luxembourg, have surpassed the UN target of devoting 0.7 per cent of GNP to international aid. Meanwhile, Canada's spending declined from 0.45 per cent in the early 1990s to 0.22 per cent in 2001. We fell from sixth place in the 22-member OECD in 1995 to nineteenth in 2001.

• (1600)

The 29 per cent cuts made to bilateral assistance during the 1990s surpassed the cuts made in other sectors. Yes, the budget was balanced, but on the backs of the poor. Within the ODA budget itself, it was once again the poorest who shouldered the greatest burden.

As Gerry Barr, President of the Canadian Council for International Cooperation, the CICC, has noted, 70 per cent of the world's poorest people live in rural areas and depend on a vibrant agricultural sector for their livelihood. However, programs directed at food security and agriculture were cut by 58 per cent in the 1990s. Aid to sub-Saharan Africa, one of the poorest regions in the developing world, was cut by 40 per cent between 1992 and 2001.

Over the past decade, Canada has failed to live up to its reputation as a world leader in defending the rights of those living in abject poverty. However, recent announcements by the government have signalled a reversal of this disheartening trend. The prime minister has announced plans to increase aid by 8 per cent annually until the end of the decade. Half of this new money is to go to Africa, which contains 34 of the world's 48 least developed states.

While this is an encouraging development, even with an annual 8 per cent increase, it will still require 10 years just to get back to the proportions of GNP devoted to aid in 1993. A study conducted by the CICC indicates that it will take Canada until the year 2040 to reach the target of 0.7 per cent of GNP. We must do better than that.

Another important issue is "tied aid." Historically, up to 70 per cent of Canadian aid has been "tied," forcing recipient states to purchase Canadian goods and services with the aid money granted by Canada. Canadian products are more expensive than those available in developing countries, resulting in extra costs of \$500 million annually. CIDA has recently moved to untie significant portions of its aid to allow local contractors to bid on CIDA projects.

This does not include food aid. Flooding developing economies with free Canadian grain can drive down the prices to levels at which local farmers can no longer make a living. As a result, national agricultural production falls, which increases dependence on imported food and aid. Instead, we need to stimulate the agricultural sector in developing countries by, whenever possible, allowing local farmers to supply the food that is needed by the poor in their country.

Many have argued that increased access to international trade is a key prerequisite for development. Over the past 20 years, the poorest fifth of the world have seen their share of world trade fall from 0.6 per cent to 0.3 per cent. Canada recently moved to eliminate trade barriers across the board for exports from Africa's least-developed countries. This is the kind of leadership we need to show but, again, we must do more.

The World Bank has estimated that the removal of agricultural trade barriers by the world's richest nations would have brought \$30 billion in benefits to the developing world between 2002 and 2005. We need to work in the WTO and in bilateral relations with the U.S. and the European Union for the elimination of these barriers, while ensuring that limited exceptions exist for developing nations to guard against domestic food shortages.

There is an emerging consensus in the international development community that eradicating global poverty should be the primary goal of international aid. The Millennium Development Goals issued by the UN in September 2000 commit to cutting the percentage of people living in absolute poverty to one-half of the 1990 levels by 2015.

In 1995, CIDA sharpened its focus on poverty by dedicating 25 per cent of aid funding to delivering "basic human needs." That was good, but Canadian aid dollars are still widely dispersed: CIDA currently funds projects in more than 100 developing countries around the world. A minimal — though increasing — aid budget, combined with this dispersal, has made it difficult for Canadian aid to have any significant, measurable impact. The government has recently identified nine priority countries, six in Africa, to receive the lion's share of new aid funding. While this represents an important step forward, it is not enough. Funding should be reallocated from middle-income countries to those states which need it most, consistent with CIDA's primary objective of fighting poverty.

The spread of AIDS has triggered a crisis, particularly in Africa where the very fabric of society is under siege from a disease that demands extensive health spending for effective treatment and

prevention. In 2000, the G8 pledged to help reduce the number of young people infected with AIDS by 25 per cent by 2010, but these efforts have not received sufficient funding. At least 30 million Africans currently have the HIV virus, and 200,000 people die from AIDS every month.

I think that Canada's pledge of \$100 million to the AIDS fund over four years — which is proportionately one of the smallest contributions among the wealthy nations of the world — is insufficient. If we are serious about focussing our development efforts in Africa, we must do more to address one of the most significant threats facing that continent.

Honourable senators, the challenges of global poverty are complex and truly staggering, as Senator Bolduc showed in the lengthy and comprehensive speech that he gave in introducing this bill. I think that Canada can play a significant role. This bill, introduced by Senator Bolduc, is another step in the direction that we can take in order to move forward.

In 1994, the special joint committee reviewing the Canadian foreign policy recommended that CIDA be given a clear mandate for poverty reduction and that this be enshrined in legislation. Senator Bolduc's bill will fulfill that recommendation. The bill will create a statutory framework for CIDA which will give it an independent status with respect to Parliament. Instead of being accountable to the Department of Foreign Affairs and International Trade for its objectives, policies and strategies, CIDA will answer directly to Parliament.

The department does have a legitimate interest and a legitimate mandate in providing for Canadian security and economic interests. However, CIDA's mandate must be different; it must be to contribute to the eradication of global poverty. Clearly separating these organizations will enable each to pursue its mandate, while also providing a forum for the coordination of development and foreign policy.

Increased accountability to Parliament will also give Canadians a stronger voice in the management of aid policy. The international assistance budget is currently at \$2.3 billion, of which \$1.85 billion is managed by CIDA — which is the lion's share, and projected to grow. It is thus no longer appropriate for governments to maintain the option of significantly altering CIDA's primary objectives and strategies without consulting Parliament. Enhanced accountability will also help to ensure that Canada's aid budget is managed as effectively as possible and is focused on the eradication of poverty.

Finally, this bill will create an opportunity for a thorough examination of Canadian aid policy in committee. CIDA has historically worked in partnership with Canadian NGOs, which have a wealth of frontline development experience. However, many of these Canadian organizations have felt sidelined in the ongoing reorganization of Canadian priorities and strategies. These are very experienced people. Committee hearings will give them the opportunity to make presentations on issues that are not only within their expertise but their passion. The NGOs' abilities to advance development education across Canada must be restored.

Honourable senators, we have an opportunity to play a role in the improvement of Canada's international assistance policy framework. We should work together to pass a well-considered bill that will make Canadian aid more effective in pressing the needs of the world's poor.

• (1610)

Hon. Marcel Prud'homme: Honourable senators, this is a subject of high interest but this is not the time. I used to be a critic of CIDA under Mr. Trudeau and Mr. Turner. I would like to ask that this be adjourned under my name.

[Translation]

Senator Robichaud: Honourable senators, the debate stands in the name of Senator De Bané, who intends to speak next week. For Senator De Bané, I move that the debate stand until the next sitting of the Senate.

On motion of Senator Robichaud, for Senator De Bané, debate adjourned.

STUDY ON PROPOSAL OF VALIANTS GROUP

REPORT OF THE NATIONAL SECURITY AND DEFENCE COMMITTEE

On the Order:

Resuming debate on the consideration of the Fourth Report of the Standing Senate Committee on National Security and Defence (*study on the proposal of the Valiants Group*) tabled in the Senate on December 12, 2002.—(Honourable Senator Day).

Hon. Joseph A. Day: Honourable senators, this is a report of the Sub-Committee on Veterans' Affairs of the Senate Standing Committee on National Security and Defence. The sub-committee heard Hamilton Southam, President of the Valiants Group, Sidney Wise, historian with the Valiants Group, and Lieutenant General Charles Belzile, President of the Royal Canadian Legion. We also heard from various government departments.

Knowing their position, the committee concluded that the proposal to commemorate the efforts of the Valiants Group was commendable. As a result, the committee recommends that the government examine the Valiants Group's project.

[English]

Honourable senators, in the last few days in this chamber we have been discussing monuments with respect to World War I and World War II, those monuments being located in France and Belgium. This proposal recommends the creation of a monument in downtown Ottawa to salute the heroic wartime sacrifices of those individuals who fought victoriously for the independence of Canada during the 17th century, 18th century, 19th century and 20th century.

[Senator Roche]

The original Valiants proposal presented to the Subcommittee on Veteran Affairs calls for a series of 16 statues in line along Elgin Street, south of the National War Memorial. The statues would commemorate six major periods of conflict and resolution that provide us with a basis for Canada's journey from a European colony to an independent nation.

Honourable senators, the individuals mentioned on the list of nominees are a virtual who's who of Canadian history. To name a few: Marquis de Montcalm, General James Wolfe, General Sir Isaac Brock, Charles-Michel de Salaberry, Laura Secord and General Sir Arthur Currie. These are but a few of the storied men and women who we would be able to visibly honour and admire by making this project a reality.

Honourable senators, this project would create an enhancement to the National War Memorial that would be appropriate and in keeping with the historic significance of that monument here in Ottawa.

The Subcommittee on Veterans Affairs was also informed by the proponents of this project that they were willing to assist in the funding of the project. The subcommittee was told that the government had made the decision not to contribute to this project. That decision appears to have been made after deputy ministers examined the proposal in late 2002.

The reasons provided for this disappointing development were that 16 statues were too many, there were too many officers nominated for statues vis-à-vis other ranks, and that the estimated cost was too high. It was at that stage that the proponents of the project decided to come before the Subcommittee on Veterans Affairs requesting that we look at the proposal. This report is a result of the deliberations of the subcommittee.

Honourable senators will know that in this report we recommend that the Minister of Canadian Heritage reconsider the project, especially given that the group has proven to be flexible in terms of the size of the project and is prepared to raise funds to contribute it. To that end, I am pleased to report that the Minister of Heritage has agreed to review the project and has facilitated meetings between government officials and the proponents of the project.

As a result of those discussions, an alternate measure has been devised that addresses the initial criticisms raised by the government but still achieves the overall objectives of the Valiants Group. This alternative would be the erection of a mural panel made of stone or bronze that would depict the 16 valiants in question. The proposed mural would be located on the south side, or the canal side, of the extended sidewalk that surrounds Confederation Square, between the National Arts Centre and the recently announced political history museum, the former railway station across from Chateau Laurier.

Honourable senators, this proposal has an estimated cost of \$1 million, which is far less than the original proposal. Moreover, it exhibits the flexibility and determination of the Valiants Group in seeing that the project becomes a lasting memory to all Canadians.

To conclude, honourable senators, I want to publicly thank those individuals who were involved in this project for their time and effort, namely Mr. Hamilton Southam and his committee. I hope that our government has the foresight to help make this project a reality soon.

To that end, honourable senators, I encourage you to express your support to the Minister of Heritage for this project and ask her to make the completion of this project a priority. I look forward to the day when we can all see this monument help frame the National War Memorial, completing the picture that will forever encompass the Tomb of the Unknown Soldier.

Hon. Senators: Hear, hear!

The Hon. the Speaker: If no other senator wishes to speak, this matter will be considered debated.

• (1620)

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

ELEVENTH REPORT OF COMMITTEE— DEBATE ADJOURNED

The Senate proceeded to consideration of the eleventh report of the Standing Committee on Rules, Procedures and the Rights of Parliament, presented earlier this day.

Hon. Anne C. Cools: Honourable senators, this report is unknown to the chamber. Perhaps we could have an account of what is in the report.

Hon. Lorna Milne: Honourable senators, this report was circulated earlier today and it contains amendments to the attendance policy of the Senate in subsections 5(2) and 5(3). The amendments simply clarify the present attendance policy of the Senate and make it actually more responsible for senators, to ensure that they will never be accused of malingering.

Senator Cools: Honourable senators, I am wondering what the rush is? I would like to speak to this matter but I have not looked at it yet, and so I will speak to it tomorrow. I move the adjournment of the debate.

On motion of Senator Cools, debate adjourned.

THE SENATE

WORLD HEALTH ORGANIZATION— MOTION REQUESTING GOVERNMENT SUPPORT FOR TAIWAN'S REQUEST FOR OBSERVER STATUS ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Atkins:

That the Senate call on the Government of Canada to support the request of the Government of Taiwan to obtain observer status at the World Health Organization (WHO).—(*Honourable Senator Prud'homme, P.C.*)

Hon. Marcel Prud'homme: Honourable senators, I promised to speak to the motion of the Honourable Senator Di Nino last Monday. I stated in that debate that it would be quite interesting for senators to understand what this issue is about. The debate began on May 5 with a motion in the House of Commons, which was adjourned by one Liberal member. The debate resumed in the House of Commons on May 27 and, to the surprise of many, the entire cabinet voted against the wish of the House of Commons. With that, I decided to read the complete file of this very special wish of the House of Commons.

Last Thursday, June 5, I was not satisfied with what I had read and was waiting to ask questions of various cabinet ministers; and it was difficult for me to receive an answer. However, I was able to contact many ministers and all of their answers matched, which suited me just fine. However, it was too late for me to prepare to speak to the motion last Monday, as Senator Day wanted me to do for Senator Di Nino.

I regret that I disappointed the Taiwanese lobbyists' group on the Hill. However, I did speak to some of them on the phone about the delay but I did not give my reasons. Perhaps someone from the government would take on the debate after I make my small contribution today. I am now satisfied with the reason, invoked by the cabinet minister, for the vote of all parties against an immense majority of the House of Commons. The motion was negated by 163 to 67, I believe.

We all know, and for those of you who do not know, it goes back to the policy of Canada concerning China, like one country under two systems with Hong Kong. It was quite complicated. I have been interested in this matter for a long time. Prior to the Korean War, when I was a young Liberal, former Prime Minister Louis St. Laurent was about to recognize China. Unfortunately, the Korean War took place and that was the end of it until another Prime Minister whom probably some honourable senators have known, Pierre Trudeau, took the first step toward the recognition of China.

Since that time, Taiwan has wanted to be recognized separately. The perpetual debate between China and Taiwan, and the Canadian policy towards the policy in China, leads us to the expression of many wishes by the rich and powerful people of Taipei, whom I respect very much.

Taiwan probably has more gold reserve than any country in the world, which means that it could be open to danger. We may see Taiwan turn to another power more willing to recognize her as a country. Each of these events is a small step toward that. Some people could provide the house with a much clearer and more refined explanation. However, that explains the hesitation of the Canadian government.

I am satisfied that that is why the cabinet ministers voted against the motion. I had promised Senator Day and Senator Di Nino that I would make that kind of intervention. I have not received the assurance that I was on the right path. I will not talk about other issues that took place between now and then. I have carried the burden on my shoulder and I have made my

contribution. I have nothing else to say. I am sure that by the time I sit down, His Honour the Speaker will ask if the house is ready for the question, at which point I will probably shout: "No standing vote." Someone else will doubtless say "On division." Senator Di Nino, Senator Day and a few others will be very happy, but do not count on it. It would be a very strong wish expressed by both Houses, but I do not think much action will be taken on it.

Hon. Pierrette Ringuette: As I listened to our honourable colleague, I realize that I was very fortunate to visit Taipei a few years ago and become acquainted with the people, the economy and their vision of what they want to do in the world. I was impressed with their comments.

I considered Senator Prud'homme's comments and I looked at the wording of the motion. Knowing all of this, does the honourable Senator Prud'homme not think that he could move an amendment to the motion such that the Senate should support this motion?

• (1630)

Senator Prud'homme: I am a very strong supporter of the World Health Organization, but I do not like an organization using one of the saddest illnesses in the world to go around the circle and say, "Who wants to help the people of Taiwan, Hong Kong, China or Toronto?"

Taiwan tried. They tried somewhere else. They tried to be a member of the Asia-Pacific Parliamentary Forum. I am co-founder of that organization along with Mr. Nakasone from Japan. His Honour chaired a meeting in Vancouver. I had always been a delegate to Asia-Pacific, until I became an independent senator. Mr. Nakasone, who is now 60 years in Parliament, is still looking for me at every convention, hoping that I will return some day. Unfortunately, I am not a delegate.

Taiwan is trying to slip into the WHO. They try to slip into every organization. I wish them good luck. That is the reason, honestly, that I did not expect this motion to be adopted.

[Translation]

This explains why we are attempting, because of this tragic situation, to recognize them as observers.

[English]

Honourable senators, I think it is a good thing to recognize them as observers, but it is the other attached consequences that are worrying the cabinet ministers. I was also a founder of the Canada-China group over 25 years ago. Another beloved Speaker, when only a senator such as I, Senator Molgat became the first chairman of Canada-China.

I do not know what happened to me. I am an honorary chairman of Canada-China. No one recognizes me because there is a new chairman, Senator Austin. I flew out the window when I

became an independent. I lost everything, but I still consider that I did my duty as a good Canadian parliamentarian 25 years ago.

Having said that, I will not pursue the topic further. Please do not ask more questions because you will get to know a little bit more.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I will also be voting against this motion, but I want to make it very clear why I will be voting against this motion. The honourable senator is quite correct in saying that it has been the tradition of the Government of Canada to have a one-China policy. We do not vote on motions that would in any way jeopardize that policy, which we have held for a very long time.

The issue is not a simple one. It would appear that the people of Taiwan did not get access to WHO services as quickly as they should have received them.

I want honourable senators to know that while I will vote against this motion, I have made an intervention with the Minister of Health and asked her to make an intervention with WHO to ensure that the information that the people of Taiwan has every right to expect as citizens of this planet never again be denied to them in a speedy way. They should not be prevented in any way from having the most up to date, most thorough information that they require to protect their citizens. Despite how we might feel about a one-China policy, the people who live in Taipei are worthy of our respect and worthy of receiving services.

Hon. Consiglio Di Nino: Honourable senators, I move the motion standing in my name.

The Hon. the Speaker: Is the souse ready for the question?

Hon. Senators: Question!

The Hon. the Speaker: It was moved by the Honourable Senator Di Nino, seconded by the Honourable Senator Atkins, that the Senate call on the Government of Canada —

An Hon. Senator: Dispense.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: On division?

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Did His Honour say carried, on division?

The Hon. the Speaker: I was about to say that.

Senator Kinsella: Good.

[Senator Prud'homme]

The Hon. the Speaker: Honourable senators, I do not see anyone pressing for a voice vote. I will say that the motion is carried, on division.

Motion agreed to, on division.

CANADA ELECTIONS ACT

MOTION TO REFORM PARTY FINANCING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Kinsella:

That the Senate urge the Government of Canada to reform the Canada Elections Act and other pertinent Acts to eliminate all donations to political parties and to replace them with a system of full public financing, and to establish an impartial, independent committee to direct and oversee the said system, including setting and enforcing standards and rules of conduct.—(*Honourable Senator Di Nino*).

Hon. Consiglio Di Nino: Once again, honourable senators, the clock is ticking on my motion. I will speak for 10 seconds and ask that the motion be adjourned in my name so that the clock can start ticking again.

We know that this issue is now before us. I would certainly like to hear debate on this issue. I will be participating on this issue, and I would like to see that it remain on the Order Paper. Therefore, I would ask for adjournment in my name.

Hon. Marcel Prud'homme: I will help the honourable senator, who has already spoken; therefore, I will speak on his behalf to turn back the clock.

The Hon. the Speaker: The honourable senator can adjourn the item again for the remainder of his time.

It is moved by the Honourable Senator Di Nino, seconded by Senator Keon, that this matter be adjourned to the next sitting of the Senate for the balance of his time and that it continue to stand in his name. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

On motion of Senator Di Nino, debate adjourned.

POSSIBLE CLOSURE OF FISHERY FOR NORTHERN AND GULF COD STOCK

INQUIRY

On the Order:

Resuming debate on the inquiry of the Honourable Senator Cook calling the attention of the Senate to a Position Statement presented to the Minister of Fisheries and Oceans concerning the possible closure of the fishery for Northern and Gulf Cod in NAFO Areas 2J3KL and 3Pn4RS.—(*Honourable Senator Rompkey, P.C.*).

Hon. Bill Rompkey: Honourable senators, I wish to make some comments on the inquiry of Senator Cook. I thank her for bringing the subject forward.

This inquiry really has to be seen in relation to the report of the committee previously on straddling stocks because the two are combined. The effect of the closure of the cod fishery on my province, in particular — it is not a moratorium any more, it is a closure — has been devastating.

Much attention has been paid to mad cow disease in Alberta and much attention has been paid to the SARS issue in Toronto. We feel for those areas. We feel for the people of Alberta, because we know what they are going through, and we feel for the people of Toronto, because we know what they are going through. The closure of the cod fishery is a devastation for us as well, and it affects not just our economy but our very being.

• (1640)

I was reminded the other day, while listening to *Cross Country Checkup*, that when we came into Confederation in 1949, 70 per cent of all of Canada's eastern offshore came with us. We came in then with a \$40 million surplus and a good fishery. The fishery was up and down. Some years it was good, some years it was not so good, but it was there, and never was there no cod at all.

For almost 500 years, people fished for a living. I remember very well in 1992 when the moratorium was first imposed. It was a Newfoundlander who had to impose it — John Crosbie, who was minister at the time. I know the pain that he went through and the anguish that he felt in taking that particular decision.

I remember a television interview of an older man from Petty Harbour, near St. John's. This man was probably 50 or 60, had fished all his life and really knew no other occupation. He was interviewed on how he felt about the moratorium that had been imposed in 1992. Honourable senators must remember that these men get up early in the morning. They get up before dawn, and they have maybe a little lunch but not a full breakfast, and they go and haul their nets or check their fishing grounds, or whatever they have to do, but it is an early morning activity. They have been doing this all their lives during the fishing season — the early rising, the checking of the nets, the coming back, if they have a small boat. If they have long runner, they are gone for a longer period of time. He said, "The worst part for me is when I get up in the morning, I do not know what to do with the rest of the day." I remembered that because it was so striking.

If there was a young person in the fishery, in his 20s or 30s, he could find something else to do. There are possibly things you could train for, or other jobs you could take, but for a man in that category, and there are many of them, it does not just affect his economy, his income, his family, but it affects what he does for a living and it affects his life, and the way he lives. You have to understand that to understand the effect on my province. It is not just a matter of the economy.

The fact is that the fishery in Newfoundland, in terms of its contribution to GDP, is probably bringing in more now than it did before, because the species that are being fished are high end and high value, like shrimp, crab, and so on, but those groundfish stocks that have been the traditional staying power of the fishery in Newfoundland are gone. That is what affects not only their economy but their way of life, so there has been a devastating effect.

The Minister of Fisheries has tried to compensate by increasing crab quotas and by increasing shrimp quotas and by allocating to people other species, and that is good. That is part of a solution, but I think we must also do a couple of things we have not done. We have added some funds to the Employment Insurance fund to bring about compensation in that way. I think we should go a little farther, if I may say so. I think we should do the kind of things that we did in the 1990s.

We compensated a lot of people in the 1990s, but those who stayed beyond the 1990s were what I would call the professional class. Honourable senators must remember that a lot of people are engaged in the fishery, some more seriously than others, some part-time, some full-time, and a lot of the people who were eliminated, if I can put it that way, from the fishery in the 1990s were those who did it as a part-time occupation. The full-time, serious, professional fishermen stayed, because it was a hope. There was a moratorium, and the hope was that maybe the cod would come back: Let's hang on, let's keep our nets, let's keep our boats, and let's keep our equipment in case something happens and it improves — but it did not improve. Those people, those full-time, long-time, historic, professional fishermen, now have to leave and do something else.

I think we should do a couple of things. We should, first of all, buy their licences, as we did in the 1990s. I think that would be a reasonable thing to do. There is adequate precedent for that, and we should do that. For people who have no other source of income and cannot get one, who cannot go to Fort McMurray, who cannot go to Thompson, Manitoba, who cannot go wherever there are jobs, either because, for one reason or another, they cannot move or because they cannot get the training or because they are too old, there has to be some compensation. There is adequate precedent for that, too, whether it is a railway closure or automotive plant closure or whatever it happens to be. We have that obligation to Canadians wherever they are and whatever they do. We have an obligation to people in that fishery as well.

The other thing that I think we have to do is more adequate research, because we have not had access to the information that we need. One thing that happens when you attack the deficit and when you try to control spending and cut down your budgets is that you look for ways and means to do that, in every department across the board. Unfortunately, one thing that happened in the Department of Fisheries was that the money allocated to research was trimmed, cut and reduced. Apart from other activities in that department, that is one of the things that happened. You cannot do that and expect to know what is happening to stocks.

It is hard enough anyway to know what happens to fish. You can count caribou, as Senator Watt and Senator Adams know. You can count trees, as my colleagues from New Brunswick

know. However, it is very difficult to know what is down under the sea. We have not mastered the technology that will tell us exactly what fish stocks there are, and where they are. We need to apply money to that research, to know what is happening under the sea and to know where the fish are and where they are going and where they are going to be. Now that we are healthier in terms of our own budget here in Ottawa, we need to put some of the money into research that was there before those cuts.

Another thing we need to do is seriously look at the seal population. The reason for the decline of the cod is complicated. There are perhaps five or six major factors. The principal factor, in my opinion — and I do not know if my colleagues from Newfoundland would agree with me or not — was the over-application of technology. It was the large ships, the draggers with the small-sized nets. You will remember Brian Tobin's display in New York of the size of the net and the lasting impression that he made with that small, last little turbot clinging by its fingernails to the Grand Banks.

There was overfishing with the wrong kind of technology, with small nets, and those draggers cleaned up everything from the bottom, whether it was large or small. The primary factor for the demise of the cod was the over-application of technology. This was not confined to us. We have seen now that this, in fact, is a worldwide phenomenon. The danger to marine life is worldwide. It is not confined to us. However, the pain we feel is our own pain. One of the reasons is the over-application of technology.

Clearly, environment was another factor. Global warming was a factor. The other day, the people of Cape Breton found a walrus off their shores. They had not seen one in hundreds of years. It came down, they say, from the Arctic on the ice floes and happened to see Cape Breton as it was passing. "That seems like a nice place; I think I will go stop there for a while." That is the kind of thing that is happening with global warming. Senator Adams can tell you about polar bears in the Arctic. The ice cap is diminishing at a much more rapid pace than it ever did before. The most telling comment on global warming came from Iqaluit where people explained, "This is what is happening with us." Global warming had an impact on the water, and it has had an impact on the demise of the cod.

The third issue, apart from the technology and apart from global warming, is the increase in the seal population. A seal eats a ton of fish a year. We do not know what kind of fish, but Morrissey Johnson, who was a Member of Parliament for Bonaville and also a sea captain, said with regard to what seals eat, "They sure do not eat hamburgers." They eat cod, shrimp and all sorts of other things, but they do eat cod, and they eat only part of the cod and leave the rest.

There are 7 million seals, and the population is growing. No matter what anyone says, that is a factor in the demise of the cod because seals have no predators. The Government of Canada must institute a cull. I know of no other way to say it. There must be some control of that aspect of marine life, because nothing else is controlling it. As other aspects of marine life diminish, the seals are increasing.

• (1650)

This is an issue with which the government and the country must come to grips. Whether the environmental movement, Greenpeace or the International Fund for Animal Welfare like it or not, this is a serious issue that must be dealt with.

As I said, this motion must be viewed in relation to the report of the Fisheries Committee on straddling stocks. I believe it was Mr. Trudeau who said that fish swim and they do not know where the 200-mile limit is. They have no idea whether they are 150, 200, 250 or 300 miles out. We are the only coastal state that does not have its outer limit at the edge of the continental shelf. We have it at 200 miles, but the continental shelf extends further than 200 miles, and fish can be caught outside our 200-mile limit.

Canada should, first of all, sign the Law of the Sea, which it has never done. The Law of the Sea was negotiated in the 1970s and agreed to in 1978, but never signed. Canada must, second, exercise control over the portion of the continental shelf that extends beyond 200 miles, including the Flemish Cap.

Honourable senators, I wanted to draw your attention to these matters in order to give my colleague time to deal with some business, which I hope is proceeding favourably. I am grateful to Senator Cook for bringing this issue forward, and I hope that her contribution and mine will have some effect on policy.

Hon. Jane Cordy: Will the honourable senator take a question?

The Hon. the Speaker: Senator Rompkey has used his entire 15 minutes.

Are you requesting additional time, Senator Rompkey?

Senator Rompkey: Yes.

The Hon. the Speaker: Is it agreed that Senator Rompkey be accorded additional time, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Senator Rompkey, will you accept a question?

Senator Rompkey: I will.

Senator Cordy: I want to thank Senator Rompkey very much for giving the senators in the chamber an idea of the effect of the demise of the cod fishery on the Province of Newfoundland. The Atlantic Liberal Caucus has been kept up to date on this issue by members of the Newfoundland caucus, including senators and members of the House of Commons.

This is certainly a great problem for Newfoundland and all of Eastern Canada. As Senator Rompkey stated, it is not only the economy that is affected. The way of life of Newfoundlanders has changed, and there have been social ramifications as a result.

The story Senator Rompkey told about the older gentleman getting up in the morning and asking what he would do for the rest of the day is very poignant. Many of these people started fishing as young as 12 years of age and have been in the fishery for 40 or 50 or even 60 years. Senator Rompkey mentioned some things we could do for the people of the region, one being to buy back licences and another to have adequate research done on the fishery, which is extremely important.

I was struck by the size of the seal population. I saw a video presented by the Department of Fisheries that showed a very congested grey seal population. It covered an area 50 miles wide and 90 or 100 miles long. That was very telling with regard to what the seal population is doing to the fishery in Newfoundland.

There was some talk of sterilization of the seals. That would be a fairly slow process to reduce seal herd, and I am not quite sure how it would be done. I would not want to be in charge of such a program.

Greenpeace and the environmentalists have done a wonderful job of telling us that we should not kill seals. A picture of a seal on a brochure is certainly much more appealing than a picture of a codfish. How do we overcome the public perception to enable a culling of seals in Newfoundland?

Senator Rompkey: At the beginning of my remarks, I said that we could sympathize with people in Alberta with regard to mad cow disease. What happened to the cows that were suspected of having mad cow disease? The cows were killed because they were a danger. The cows may have had a disease and they had to go. I heard no hue and cry about killing diseased cows, but I did hear a hue and cry about killing seals that are also causing disease. When seals eat cod, they leave something called a seal worm in the cod stocks, which causes disease. This is not a pleasant topic, but neither is mad cow disease. However, we were able to take the necessary action in that situation because the population was sympathetic.

I have found over the years is that it is very difficult to win the debate on seals because the environmental groups are very well funded. When the person who began the International Fund for Animal Welfare retired, he went to the United States with millions of dollars in the bank. This is a very lucrative industry. I am not saying that there are not well-meaning people in the environmental industry; there are, but there are also people who make a very good income from this.

In the 1980s, we tried to counteract the environmentalists. Four of us from Canada, and Newfoundland in particular — Pierre De Bané, then Minister of Fisheries and Oceans; Brian Peckford, then Premier of Newfoundland; Jim Morgan, then Minister of Fisheries of Newfoundland; and I — went to six European countries in five days. In France, we sat down with the minister of fisheries because the French were buying seals. As Senators Watt and Adams know, income for the seal fishery was coming from Europe, and Europe was closing that down.

The French Minister of Fisheries said that he understood what we were saying, that he accepted our logic and that he did not question our facts, but what was he to do about Brigitte Bardot? The influence of Brigitte Bardot was far more than that of not only the Government of Canada but also of the Inuit in the Arctic and the fishermen in Newfoundland. We had a difficult time overcoming those who had made such a forceful and lasting impact on public consciousness, and we were unable to overcome that.

• (1700)

In regard to mad cow disease, somehow or other people were willing to accept a solution, but, thus far, a great portion of the population has not been willing to accept a solution on seals. I do not know what sterilization means or how one goes about doing it. There are no limits to what the bureaucratic mind can invent because what has to be done with the population is that is has to be culled.

Senator Prud'homme: Bill C-10B.

Senator Rompkey: I do not know if that is an adequate answer.

Hon. Willie Adams: I would like to ask Senator Rompkey a question. The Fisheries Committee heard that there are approximately 6 million seals in the Newfoundland region. Does the honourable senator know how many tons of cod 6 million seals eat each year?

Senator Rompkey: I do not think there is an accurate estimate. That is the part of the problem. The seals eat other things as well, not just cod. I do not know if there is an estimate. Clearly, if there are 7 million seals and they eat a ton of fish a year, they eat an awful lot of cod.

Hon. Mira Spivak: I would like to distinguish between animal rights people and environmentalists. Many environmentalists understand that we need to condone hunting and culling or we will not have habitat.

What emphasis would the honourable senator place on the seals as opposed to the freezer trawlers that bring up everything? What is the emphasis in terms of the extinction of the cod?

Senator Rompkey: Someone said something interesting to me the other day. I think it was Tom Kent, in Newfoundland, who received an honorary degree from Memorial University. We were talking at lunch and came to the subject of seals. He said, "I remember saying that part of the problem in decimating an animal population was the invention of the rifle."

Over the years, we have applied technology to harvesting, but we have over-applied that technology. We have allowed the technology to expand, no matter what the species. I am not an expert on other species, but I do think that is true with the application of technology: Bigger and bigger ships, with bigger and more improved technology, can do things quicker and more easily without discrimination.

A fisherman who has a single hook and line in the water, discriminates. He catches a large cod, and cod have been known to grow as large as 100 pounds or more. Large boats that have small meshes in their trawls catch everything, small and large. If the small fish that reproduce are caught, they do not reproduce any more. What we are really doing is attacking the source of the cod.

If there is a prime factor out of the five or six involved in the demise of the cod, I think it is the over-application of technology, the trawlers, the large vessels with the technology that we have allowed to come into our waters and catch that fish.

Senator Spivak: This has been known for a number of years. Why has there not been legislation to control the size of the nets and control overfishing?

Senator Rompkey: We need to do things differently. What we have been doing up to now has not worked. A very interesting idea came up yesterday. It is not new, but it was mused by John Crosbie, who suggested that we look at cutting the ocean up into sections and allocating a section just as we would for a piece of farmland. We would allocate a section of the sea.

I do not know much about this idea. It is not new. Dividing of the ocean into lots that can be allocated to either a fisherman or groups of fishermen or companies has been applied in other territories, and I do think it is worth studying.

One thing this chamber and the fisheries people should do is to examine that idea. Not every country in the world has made a mess of its fishery. Iceland has one of the most lucrative fisheries in the world. It has high GDP, low unemployment and a 98 per cent literacy rate. Iceland is going great guns. I hope that Senator Johnson will contribute to the debate because she knows more about it than I do. She has knowledge of both Newfoundland and Iceland.

There are countries that make their fisheries work, but we, in this country, have not made it work. When Newfoundland came into Confederation in 1949, we brought with us 70 per cent of the eastern offshore region. That 70 per cent, in those 50-odd years that we have been in Canada, has been decimated. The cod are gone.

Honourable senators, what we have been doing is not right. We must look for new methods, and Mr. Crosbie's suggestion is one we should examine.

Hon. Joan Fraser: Honourable senators, I could not agree more about the seals. I wonder whether the public mood about seals may not be shifting and there may not be more possibility now to address this issue than there was 20 years ago.

I wonder if Senator Rompkey could talk more about the Law of the Sea. I have never understood why we did not sign it. My recollection is that Canada was among the lead negotiators of the Law of the Sea. Did it fall off the table somewhere along the line? Did we find something in it that made it risky for us to sign? Why did not we sign it? If we had signed that document, would it have helped us deal with these factory trawlers?

Senator Rompkey: I think the Law of the Sea would have helped us.

In regard to Senator Fraser's earlier point about the shift in public opinion in relation to seals, Senator Joyal noted quite importantly that Brigitte Bardot is getting old and perhaps that is the explanation why the mood is turning.

I do not know much about Canada not signing the Law of the Sea, but I think the reason for not signing was partly due to the Americans and the Europeans. As I understand it, the European Community is about ready to sign. People, including our own Minister of Fisheries, tell me that we could soon sign that document.

• (1710)

If we do not have some kind of policing operation, then that will not be any good either. The operation that we have had in place, the North Atlantic Fisheries Organization, which came out of that exercise, has been for all intents and purposes a toothless tiger. It has not been able to enforce its own quotas. For example, Spain and Portugal, even though a quota is set for them, have ignored it and they fish what they like with impunity.

If we do not have an international regime that polices that area, then Canada has to set up its own. My understanding of the Law of the Sea is that it evolves as countries change their laws, their regimes and their ways of doing things. That is how the Law of the Sea comes about, and that is how the law evolves.

One of two things must happen: Either we have to change NAFO, giving it some teeth, meaning and authority, or Canada has to extend unilaterally its jurisdiction beyond 200-miles and cover the nose and tail of the Grand Banks.

The Hon. the Speaker: If no other honourable senator wishes to speak, this inquiry will be considered debated.

[Translation]

FOREIGN POLICY ON MIDDLE EAST

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Prud'homme, P.C., calling the attention of the Senate to Canadian foreign policy on the Middle East.—(*Honourable Senator Prud'homme, P.C.*).

Hon. Marcel Prud'homme: Honourable senators, I almost feel like offering you a quote from Charles de Gaulle, as opposed to Winston Churchill, who said all his life that he had to bear the Cross of Lorraine. The Cross of Lorraine, of course, was a reference to Charles de Gaulle.

[English]

It was quite a pain for Winston Churchill to do that.

[Translation]

Unfortunately, for nearly 50 years now, I have had a heavy cross to bear, but not, as Senator Lapointe would say, the cross of Christ, but rather the cross of my opinions on the Middle East.

I have considerable knowledge of the subject, having devoted more than 50 years of my life to seeking one and only one thing: peace in the Middle East with justice for all. Justice for all, however, does not mean eliminating anyone. I got an extraordinary piece of advice from the Right Honourable Prime Minister Trudeau: "If you get involved in this issue, hang your hat on a single argument and never let up on it, or let anyone else turn you from it, or you will be lost."

I consulted Prime Minister Giulio Andreotti, and he told me that I would pay for it politically, if I got involved in anything to do with the balance in the Middle East. Mr. Couve de Murville, Minister of Foreign Affairs under Charles De Gaulle, told me the same thing; Gérard Pelletier was there at the time and was most embarrassed.

I have never, honourable senators, budged an inch, regardless of provocation, insult or pressure, from my constant desire to seek peace in the Middle East, as a Canadian. But when you see the real role of Canada in this tragedy we continue to witness today, you will see that Mr. Trudeau was very wise to tell me not to budge. On November 29, 1947, we had United Nations Resolution 181. You will see, I have all my notes here. I have boxes and boxes of them that I will not use.

We must return to the spirit of UN Resolution 181. It was voted on by 33 countries, all good Christians and Catholics. Thirteen voted in favour and ten abstained, among them Great Britain and China. I have never deviated from this resolution on the immense responsibility of Canada.

The Right Honourable Lester B. Pearson was the Deputy Minister of External Affairs and was head of the Canadian delegation to the United Nations at that time. Israel calls him the Great Facilitator. When I was there recently with Mr. Chrétien, they were referring to him as "Balfour Number 2," so he is highly respected.

The main creator of Resolution 181 was a Justice of the Supreme Court of Canada, Ivan Rand, whom workers remember more for his "Rand formula." Justice Rand and Mr. Pearson were the ones who led the United Nations to adopt this famous resolution.

From that time on, there were to be two States on the territory of Palestine, one for the Jews and one for the Palestinians. I have never deviated from that resolution. I have always vigorously fought any form of anti-semitism, because this is a cancer that devours one from within. A person is entitled to hold an opinion on the Middle East that does not suit a certain lobby in Canada, which attacked me mercilessly barely two minutes after I was

chosen over Sheila Copps as President of the Liberal Caucus of Canada. In that secret ballot, I had a 22 vote lead, out of the 88 cast. In the seven times that I served as chair of the Foreign Affairs Committee and as President of the Quebec Caucus when there was a secret ballot, I always won. I suppose I was expressing views that others did not like to express openly. And where are we at today?

[English]

...as they say, back to square one, where Mr. Bush himself is now, being viciously attacked because he said there should be two states in the land of Palestine. I am not sure he read resolution 181. That is exactly what happened on November 29, 1947, by a vote of 33 to 13 against and 10 abstentions.

There are many women here in the Senate. I say to you that you should go and check. You would have the greatest admiration for a woman who was in foreign affairs. Her name was Elizabeth McCullen. She was known, in a friendly way, as the leader of the official opposition to Mr. Pearson. Her every word was read by Mackenzie King because he had a great deal of respect for one of the first women in foreign affairs. She said, "We will pay, in 50 years from now, for what we are doing today." What a woman of vision she was!

I am not going to start talking about terrorism, or about Shamir and Begin, who had arms from Czechoslovakia. This you will read soon. I want to be positive. I will not talk to you about the assassinations that took place in 1945, 1946 and 1947. Lord Moyne was assassinated in Egypt. Both Mr. Shamir and Mr. Begin were shooting people. They were scaring the people away. This is not the subject. I am a dreamer and a reconciliator. I have endured enough but I have never moved an inch.

Some members here better be careful because I can name them, including their husbands who attacked me when I was elected Chairman of the National Liberal Caucus in a secret ballot under John Turner. I was viciously attacked by the big powers of the day. I did not move. I did not react.

You can smile. One of them was your husband.

• (1720)

I want to know what role Canada can play in the Middle East. Do you know why? Because Canada is so respected around the world — but we are frozen. We do not dare. We should have been on top because we have everything here. We have the brains; we have the knowledge; we have the respect around the world. People want Canada to play a role in the Middle East. I am telling you what I said 50, 40, 30, 10 years ago. Prime Minister Trudeau sent me as a delegate to the United Nations for a full session. I voted against Canadian instruction; he did not recall me. He probably knew what I was going to do without telling me.

In 1974, November, the President of Algeria was President of the United Nations. That was the year that Arafat spoke and said, "Please do not let me down." That was in 1974, and here we are

back at square one. We could have a world war because we refuse to see the light. We refuse to take sides. As Canadians, we are expected to be fair.

We have powerful people here in the Senate and all across Canada who could play a role. Why do they not help? Why do they not help to go back to the spirit of Resolution 181 of 29 November 1947? As long as we delay and delay, there will be more and more horror stories.

[Translation]

This is a sensitive man speaking. The insults directed at us hurt me, but I am not reacting. We dare to want to restore balance to the Middle East; a role humanity expects Canada to play. Who is preventing us from playing this role to the fullest? Rather than give you hints, I will ask you some questions. We, in Canada, enjoy all the privileges.

Yesterday evening, you heard the comments by His Excellency the Ambassador of Morocco. The Jewish community is respected in Morocco. We were able to hear the poem read by His Excellency the Ambassador of Morocco on the subject of Canada. That is the image we project throughout the world. Reasonable, respectful of the First Nations, of each other, such is Canada in its diversity.

It is puzzling that we would be so absent from this horrible dispute that is spreading like a fatal illness through the human race. How much longer must we remain silent? The French Canadian population of Quebec will ask you: how much longer will we be afraid?

[English]

Unable to take heart; unable to speak up. I am an old man. There is no worse price I can pay now but to be ignored. As long as there are two or three people who believe in you, it is enough. I am in search of peace in the Middle East, in the Holy Land.

Before we were part of it. Honourable senators, just see how things started in 1947. It only grows and grows. Like a cancer, it spreads around the world. Then you have chemical arms, biological arms, atomic arms, nuclear arms. We ask people to sign treaties. They sign, and then we say they do not respect them. There is a country there that exists.

I was not allowed, as chairman of the Foreign Affairs Committee, to mention that the State of Israel had nuclear arms. The man who revealed that fact is still in jail after 15 years or more. He was kidnapped in Rome, shipped in a container and condemned. Instead, he should have been nominated to receive the prize of peace.

[Translation]

This man should be given a peace prize because he inspired our neighbours to enjoy the same privileges. When will we become realistic? When will we stop insulting one another?

Some honourable senators, close friends, ministers and ladies say to me: "Obviously, you are against this or that group." Such comments are insulting. A sensitive man like me, against someone because of religion, choices, or characteristics? A sensitive man like me, against someone whose opinions differ from my own? Honourable senators, that is madness.

My father said to me: "To be strong, you have to resist the temptation to give equal treatment to those who hurl insults."

I respect other people and their opinions, because that strengthens my determination to convince my colleagues and say to them: Do you not see the madness that is spreading throughout the world? I do not claim that this reality is the only source of human folly, but it is certainly a start.

I would hope that other honourable, intelligent, cultivated and well-informed senators would rise in turn and voice their proposals about how Canada could, one day, play a more significant and fundamental role. I will repeat that, for the 40 years I have been in Parliament, the situation has only been getting worse.

I have, on numerous occasions, won debates with ambassadors. Those ambassadors who dared to confront me on television were old: "It would be nice if you were right, but I am afraid that things are getting worse."

Consider the hatred that has been unleashed against the President of the United States, George W. Bush. He is brave enough to tell it like it is, at the risk of losing the next election.

Mr. Bush sees things clearly. Do we, honourable senators, see things as they are?

Honourable senators, I ask you: Do you not have a role to play? Have you no suggestions to make, so that Canada can continue to live up to its excellent international reputation as a balanced country that believes in human rights?

[English]

As I always said, if you believe in human rights, you cannot pick and choose. You believe in the universality of human rights or you remain silent. I will sit down.

Hon. Anne C. Cools: Honourable senators, I would like to join his debate. I will move the adjournment. Perhaps I shall do some work and re-examine a bit of history, particularly what Senator 'rud'homme just mentioned, which was the assassination of Lord Moyne, the resident minister in Cairo in 1944. I would like to take the adjournment and have a look at that situation. Lord Moyne was famous in the British Caribbean because of the Moyne commission.

On motion of Senator Cools, debate adjourned.

• (1730)

CRIMINAL CODE

BILL TO AMEND—MESSAGE FROM COMMONS— REPORT OF COMMITTEE

Leave having been given to revert to Presentation of Reports from Standing or Special Committees:

Hon. George J. Furey, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, June 12, 2003

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

FIFTH REPORT

Your Committee, to which was referred the motion of the Honourable Senator Carstairs, P.C., dated June 10, 2003 and the Message from the House of Commons dated June 6, 2003, relating to certain amendments to Bill C-10B, An Act to amend the Criminal Code (cruelty to animals), passed by the Senate on May 15, 2003, has, in obedience to its Orders of Reference dated June 10, 2003 and June 11, 2003 respectively, examined the said motion and Message and now reports as follows:

PART I

Your Committee recommends that a Message be sent to the House of Commons to acquaint that House that, with respect to its Message to the Senate dated June 6, 2003 regarding Bill C-10B:

- (i) the Senate notes that the House of Commons has agreed with the amendments numbered 1 and 5;
- (ii) the Senate does insist on its amendment numbered 2;
- (iii) in lieu of the amendment numbered 3 with which the House of Commons has disagreed, the Senate adopts the following amendment and requests that it be concurred in by the House of Commons:

3. *Page 3, clause 2:* Add after line 10 the following:

"(3) No person shall be convicted of an offence under paragraph (1)(a) if the pain, suffering, injury or death is caused in the course of traditional hunting, trapping or fishing practices carried out by a person who is one of the Aboriginal peoples of Canada in the area in which the Aboriginal person has harvesting rights under or by virtue of existing aboriginal or treaty rights within the meaning of section 35 of the *Constitution Act, 1982*, and any pain, suffering or injury caused is no more than is reasonably necessary in the carrying out of those traditional practices."; and

(iv) with respect to the amendment numbered 4, the Senate accepts in part the wording proposed by the House of Commons, but adopts the following amendment and requests that it be concurred in by the House of Commons:

4. *Page 4, clause 2:* Replace lines 22 to 24 with the following:

“182.5 For greater certainty, the defences set out in subsection 429(2) apply in respect of proceedings for an offence under this Part.”.

PART II

Your Committee carefully considered the message sent by the House of Commons on the subject of Bill C-10B. The Committee held meetings on the arguments contained in the message as well as the debates that took place in the House of Commons on the Senate amendments. The Committee heard from Mr. Paul Macklin, Parliamentary Secretary to the Minister of Justice, in order to fully assess the rationale for the decision of the House of Commons on the Senate amendments to Bill C-10B. It was clear from this latter meeting that there is a fair amount of agreement in both Houses on the need for cruelty to animals legislation that recognizes reasonable and generally accepted practices involving animals (e.g. scientific research conducted in accordance with generally accepted standards, traditional hunting and fishing practices of Aboriginal peoples, reasonable and generally accepted practices of animal management, husbandry or slaughter). Where the Houses differ, however, is on the methodology that should be adopted to ensure the legal recognition of such practices.

Therefore, in a spirit of cooperation and in order to ensure swift passage of Bill C-10B, your Committee appreciates the agreement of the House of Commons on amendments 1 and 5 and it accepts, with modification, amendment 4. With respect to amendment 2, your Committee has insisted on its original amendment because it remains convinced that this amendment offers better protection to individuals engaged in generally accepted practices involving animals, as referred to above. The Committee also remains convinced as to the merits of amendment number 3 dealing with Aboriginal peoples. However the Committee did make a change to the amendment in order to address concerns raised in the House of Commons that the Senate amendment as originally proposed would allow an Aboriginal person from one geographic region to go to any area where Aboriginal peoples have rights and make a claim under the proposed provision.

Respectfully submitted,

GEORGE J. FUREY
Chair

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Furey, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[Senator Furey]

[*Translation*]

OFFICIAL LANGUAGES

THIRD REPORT—COMMITTEE AUTHORIZED TO REQUEST GOVERNMENT RESPONSE

Hon. Rose-Marie Losier-Cool, pursuant to notice of June 10, 2003, moved:

That, in accordance with paragraph 131(2) of the Rules of the Government of Canada, namely the Department of Justice, provide the Senate and the Standing Senate Committee on Official Languages with a complete and detailed response to the Third Report of the Committee adopted by the Senate this past June 5, 2003.

Motion agreed to.

[*English*]

HUMAN RIGHTS

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF LEGAL ISSUES AFFECTING ON-RESERVE MATRIMONIAL REAL PROPERTY ON BREAKDOWN OF MARRIAGE OR COMMON LAW RELATIONSHIP

Hon. Shirley Maheu, pursuant to notice of June 10, 2003, moved:

That the date for the presentation by the Standing Senate Committee on Human Rights of the final report on its study on key legal issues affecting the subject of on-reserve matrimonial real property on the breakdown of marriage or common law relationship and the policy context in which they are situated, which was authorized by the Senate on June 4, 2003, be extended to Wednesday December 31, 2003.

[*Translation*]

Hon. Fernand Robichaud (Deputy Leader of the Government) Honourable senators, I have a question for the Honourable Senator Maheu. Will the committee endeavour to present its report in the Senate while the Senate is sitting, because it is highly likely that we will not be here on December 31.

[*English*]

Senator Maheu: Thank you. It was no later than December 31 so it will be ready.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

• (1740)

MARRIAGE BILL**MOTION TO RESTORE TO ORDER PAPER—
DEBATE ADJOURNED**

Hon. Anne C. Cools, pursuant to notice of June 11, 2003,
moved:

That the Order of the Day for resuming debate on the motion for second reading of Bill S-15, An Act to remove certain doubts regarding the meaning of marriage, which dropped from the Order Paper on June 5, 2003, pursuant to rule 27(3), be now restored to the Order Paper.

She said: Honourable senators, this is a very tiny matter, and it is in the nature of the situation faced by Senator Di Nino a little while ago. Our rules state that if an order or question is not spoken to after 15 days, it drops off the Order Paper. A few days ago, I had a question on the Order Paper that was on its fifteenth day. I was distracted and did not speak to it. This motion is simply a request for its reinstatement to the Order Paper — a simple matter because the motion is explicit. It states, essentially, that it dropped from the Order Paper on June 5, pursuant to rule 27(3), and that it now be restored to the Order Paper.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

On motion of Senator Robichaud, debate adjourned.

The Senate adjourned until tomorrow at 9 a.m.

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OFFICIAL REPORT
(HANSARD)

Friday, June 13, 2003

—

THE HONOURABLE DAN HAYS
SPEAKER



CONTENTS

(Daily index of proceedings appears at back of this issue).

OFFICIAL REPORT

CORRECTION

Hon. Marcel Prud'homme: Honourable senators, I was told that I could, at this time, rise to correct the record. It is an immense correction, but very short, in my speech of yesterday, that made me say exactly the contrary of the facts.

On page 1629, when I said that we must return to the spirit of UN Resolution 181, I said it was voted on by 33 countries in favour and 13 countries against. Here, it says 13 countries in favour. Anyone reading this will say, "The guy has been involved 50 years and really does not know his facts," even though, later, you will see that it was exactly as I think I said.

With your kind permission, honourable senators, I want this to be on the record right away. Where the text reads 13 voted in favour, it should read 13 voted against. With respect to the rest, I will live with the style.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

THE SENATE

Friday, June 13, 2003

The Senate met at 9 a.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

LESTER B. PEARSON AWARD

CONGRATULATIONS TO MR. MARCUS NASLUND

Hon. Francis William Mahovlich: Honourable senators, yesterday I had the distinguished honour of presenting the Lester B. Pearson Award to a fellow by the name of Marcus Naslund from Ornskoldsvik, Sweden. There were three honourees: Marcus Naslund, Peter Forsberg and a fellow from London, Ontario, named Joe Thornton.

The winner was Marcus Naslund, but all three are great hockey players. Two of the players came from this little village in Sweden called Ornskoldsvik. In 1975, the Toronto Toros had a training camp in Ornskoldsvik, and just to illustrate how things are influenced, I am sure that I saw parents there with their young ones, watching us practice. Here we are, 27 years later, and the two boys who were at that rink are here, being honoured as great hockey players.

It is a great award and it is in respect to Lester B. Pearson. I think Alan Eagleson had something to do with this award, and the one good thing that he did in his life was to name this great award. The player is chosen by his peers and that, in itself, is quite an honour.

INTER-PARLIAMENTARY UNION

CONFERENCE ON UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

Hon. Douglas Roche: Honourable senators, at this hour on Parliament Hill an international parliamentary conference is opening, which is dedicated to developing a network within the Inter-Parliamentary Union for UNESCO. The United Nations Educational, Scientific and Cultural Organization, UNESCO, contributes to peace and security in the world by promoting education, science, culture and communication. It has done exceptional work in developing the theme of a culture of peace, which involves respect for human rights, democracy and tolerance, the promotion of development, education for peace and the free flow of information, and the wider participation of women in preventing violence and conflict.

UNESCO is especially noted for its work promoting "education for all." The latest of its many activities is a project to bring five million science and mathematics textbooks to Iraqi primary and secondary students. UNESCO is working with both the Iraqis and the United States, to promote this program. The Canadian Parliamentary Group for UNESCO, headed by Yvon Charbonneau, MP, works closely with the Canadian Commission

for UNESCO, chaired by Max Wyman. They have assembled a distinguished group for the two-day Ottawa conference. A stronger UNESCO presence in the parliamentary process in Canada should result.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I should like to draw your attention to the presence, in our gallery, of a Commonwealth Parliamentary Association delegation from the United Kingdom that is visiting Canada. The members are Lord Morris of Aberavon, leader of the delegation, Baroness Hooper, Lord Bhatia, Frank Roy, MP, and Bob Laxton, MP. They are the guests of Senator Jaffer.

On behalf of all honourable senators, we welcome you to the Senate of Canada.

ROUTINE PROCEEDINGS

STUDY ON TRADE RELATIONSHIPS WITH UNITED STATES AND MEXICO

INTERIM REPORT OF FOREIGN AFFAIRS COMMITTEE TABLED

Hon. Peter A. Stollery: Honourable senators, I have the honour to table the fourth report of the Standing Senate Committee on Foreign Affairs, an interim report entitled "Uncertain Access: The Consequences of U.S. Security and Trade Actions for Canadian Trade Policy."

On motion of Senator Stollery, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[Translation]

APPROPRIATION BILL NO. 2, 2003-04

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-47, for granting to Her Majesty certain sums of money for the public service of Canada, for the financial year ending March 31, 2004.

Bill read the first time

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Robichaud, bill placed on the Orders of the Day for second reading two days hence.

• (0910)

[English]

BANKING, TRADE AND COMMERCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE
TO SIT DURING ADJOURNMENT OF THE SENATE

Hon. Richard H. Kroft: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on Banking, Trade and Commerce be empowered, in accordance with rule 95(3)(a), to sit during the summer adjournment, even though the Senate may then be adjourned for a period exceeding one week, until such time as the Senate returns in September of 2003.

QUESTION PERIOD

HEALTH

FUNDING TO FIGHT HIV/AIDS

Hon. Donald H. Oliver: Honourable senators, the House of Commons Health Committee has called for an increase in the amount of money given to the federal HIV/AIDS program. Through the Canadian Strategy on HIV/AIDS, the federal government currently spends \$42.2 million annually on AIDS prevention, research and treatment. The committee has recommended that that amount be more than doubled, to at least \$85 million annually. AIDS activists have long been asking for this increase. It is now up to the federal government to respond to these calls for action. Will the government increase the amount of funding it provides to the Canadian Strategy on HIV/AIDS?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I thank the honourable senator for his question. The government has heard the request from the committee and will give it full consideration.

I also remind the honourable senator that a considerable amount of the donations to the New Partnership for Africa's Development, NEPAD, will be spent on HIV/AIDS, not in this country, but in a continent that is probably in much greater need.

Senator Oliver: Honourable senators, in addition to being accused of not doing enough to fight AIDS domestically, Canada's commitment to the international AIDS crisis is being questioned as well. At the recent G8 meeting, Canada was one of the only countries not to increase its contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria. The European Union, France and Great Britain all pledged to increase their funding to a total of \$1.25 billion. This new money means that another \$1 billion from the United States may be available for the global fund, as its increase was dependent upon other countries, enhancing their contributions. Will the federal government follow the lead of its G8 counterparts and make a substantial increase to the global fund?

Senator Carstairs: As the honourable senator knows, the Government of Canada has taken the lead on the Africa Fund. We had already put aside funds to be spent on the HIV/AIDS strategy; others had not. They were coming up to our commitment.

There is one exciting program in which the Canadian government is participating right now, one in which few governments are participating. I refer to funding research for an HIV/AIDS vaccine. Obviously, we hope that we will see fruitful results, as it could clearly make the most significant difference in a strategy on HIV/AIDS.

JUSTICE

PROPOSAL OF INTERDICTION
IN INTERNATIONAL WATERS

Hon. Consiglio Di Nino: Honourable senators, my question is directed to the Leader of the Government in the Senate. It was reported yesterday, in the news, that the U.S., Australia and Japan are considering seeking changes to international law, to allow suspect vessels to be boarded in international waters. Currently, the law only allows for interdiction in territorial waters. The changes are being sought in response to reports accusing the North Koreans of shipping their contraband, such as drugs, counterfeit money, missiles and nuclear technology, around the globe. The North Koreans consider the proposed changes a backdoor effort by the U.S. to place sanctions upon them. Would the leader please tell me if the government has been approached to support this proposed change to international law?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, to the best of my knowledge, no, the Government of Canada has not been approached. Clearly, if we are going into waters which are not Canada's, we would want to do it by way of an international treaty, a treaty in which significant numbers of participants will take part.

Senator Di Nino: Is that the position of the Government of Canada, or is that the opinion of the honourable senator? Could the leader obtain for us the official position of the government on these proposed changes?

Senator Carstairs: As I indicated to the honourable senator, at the present time the Government of Canada has not been approached about such changes. What I was doing was setting the matter within the context that, should we be approached about such changes, we would want to do it within an international treaty.

HEALTH

SEVERE ACUTE RESPIRATORY SYNDROME—
WORLD HEALTH ORGANIZATION CRITICISM
OF PROCEDURES TO HANDLE OUTBREAKS

Hon. Brenda M. Robertson: Honourable senators, the World Health Organization's SARS Advisory Committee will meet again, today in Geneva, to discuss the situation in Toronto. Although we hope otherwise, it is possible that another travel advisory might be made against the city?

The World Health Organization has already stated that it is designating Toronto as an area with pattern C transmission of SARS because of the exported case to North Carolina. This morning, we also had word that the World Health Organization is criticizing Canada's lack of coordination between federal and provincial authorities in dealing with the situation. Could the Leader of the Government in the Senate tell us what the federal government's response is to the WHO's criticism of Canada's handling of the SARS crisis?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, frankly, we do not believe they have the correct information. As the honourable senator knows, as I hope most Canadians know, the case of the gentleman in North Carolina appears to be an extraordinarily isolated one. The individual had contact with someone who was totally asymptomatic. There was no way that it possibly could have been known that this man was in contact with someone who had been in contact with someone else who had SARS, since they did not show any symptoms whatsoever.

In terms of federal-provincial relations, I can assure the honourable senator, and through her, hopefully, the Canadian people, that the contacts between the federal government and the provincial government have been daily and, on some days, hourly.

Senator Robertson: Honourable senators, there is also a report this morning of a leaked Ontario provincial cabinet document from April which stated that if Toronto had been hit with a major disaster on top of the SARS emergency, the Ontario health care system would have found itself on the verge of collapse. It is hard to imagine that the situation has improved over the last few months, considering a second outbreak had to be dealt with.

Will the federal government increase emergency resources provided to Ontario's health care system to ensure that an unforeseen disaster does not further cripple the province, or will the government play a waiting game?

Senator Carstairs: Honourable senators, using the word "disaster" is not helpful to the entire process dealing with the SARS outbreak in Toronto and, unfortunately, in Vancouver, although that one seems to be totally solved at this point in time.

There are enormous stresses on the health care system in Ontario. Of that, there is no doubt. Those stresses are primarily felt by the front-line workers — nurses, doctors and nurses' assistants.

• (0920)

The federal government is working with the provincial government to determine the costs within the system. I should inform the senator that there have also been significant federal government costs in dealing with this SARS outbreak, which must be considered as well.

[Senator Robertson]

CREATION OF NATIONAL DISEASE CONTROL AGENCY

Hon. Terry Stratton: Honourable senators, my question is addressed to the Leader of the Government in the Senate. Health Minister Anne McLellan has been speculating recently about whether or not Canada should have its own version of the U.S. Centers for Disease Control. With the emergence of infectious diseases such as SARS, West Nile and the new monkey pox disease that has appeared recently in the U.S., as well as mad cow disease, it is clear that we need some sort of consolidated approach to infectious disease in this country. That is reinforced by an article in today's *The Globe and Mail*, wherein the World Health Organization has criticized Canadian health authorities for failing to notify people properly that they have been exposed to SARS. A senior United Nations official also raised questions yesterday, about how well provincial and federal authorities are working together to tackle the virus.

Again, in *The Toronto Star* today, Ontario Health Minister Clement is quoted as saying that he wants to talk to his federal counterpart, Anne McLellan, to see what she can do to help prevent any further exporting of SARS. He says:

They have to step up to the plate. We not only have to be confident that we are containing the spread in our community. We have to show the world that they can be confident in us and we aren't exporting the cases to other communities.

With that in mind, it is vitally important that Canada has a national strategy to deal with these challenges, either through a national disease control centre, a national chief officer for public health, or a combination of the two.

My question is: Does the federal government intend to move quickly on this matter, and have discussions already begun with the provinces?

Hon. Sharon Carstairs (Leader of the Government): As the honourable senator knows, the Honourable Anne McLellan was in Atlanta visiting the CDC so that she could have a first-hand look at that facility. My understanding is that she is now sharing that information with her provincial counterparts so that they can work together. A centre for disease control will only work in Canada if it is a joint effort on behalf of the provinces, territories and federal government. As the honourable senator well knows, constitutional responsibility for health rests with the provinces.

WINNIPEG AS LOCATION OF POSSIBLE NATIONAL DISEASE CONTROL AGENCY

Hon. Terry Stratton: I appreciate that. Here comes the question that I am interested in, as I am sure are all honourable senators: If Canada chooses to create its own version of the U.S. Centers for Disease Control, the logical place to put it would be in Winnipeg. It is already the home of Canada's National Microbiology Laboratory, and there is also an agricultural component to that lab, as honourable senators are aware. Currently, disease control work in this country is split between the microbiology lab in Winnipeg and the Centre for Infectious Disease Prevention and Control in Ottawa.

Could the Leader of the Government in the Senate tell us if the minister's remarks mean that if such a centre were created in Winnipeg, all of the disease control work would be conducted there? In other words, will the leader push for this?

Hon. Sharon Carstairs (Leader of the Government): The honourable senator has given all of the very good arguments why a future centre for disease control should be located in our city of Winnipeg. I, of course, applaud that endeavour. I can assure him that I will do everything on my part to make my position very clear on that matter.

FINANCE

MID-TERM ECONOMIC UPDATE

Hon. James F. Kelleher: Honourable senators, I have a question for the Leader of the Government in the Senate.

Honourable senators, in recent weeks it has become clear that the economy will not do as well this year, as forecast in the budget. SARS, the high dollar and other problems are pulling us down. The economy has shed 32,000 jobs in the last two months. This will impact on the fiscal framework.

On May 24, following an interview with John Manley, *The Globe and Mail* reported that the Minister of Finance would provide a mid-term economic update this month. Could the government leader advise the Senate as to when and where that update will be delivered?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I must tell you that I did not know that there would be a mid-term economic update this month. I will seek that information and deliver it to the chamber with dispatch.

Senator Kelleher: Honourable senators, the other place is expected to rise today. Will that update be delivered to a committee of Parliament by Mr. Manley, in his capacity as Minister of Finance? Will it be delivered outside of Ottawa, away from the scrutiny of Parliament, by Mr. Manley in his capacity as a leadership candidate?

Some Hon. Senators: Oh, oh!

Senator Carstairs: Certainly, it would not be done in his capacity as a leadership candidate. If it is done at all — and let me stress “at all” — it will be done by the Minister of Finance. That is Mr. Manley's position in the Government of Canada, and that is what he will continue to be, at least in the short term.

Senator Kelleher: I just thought I would ask.

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS— PRESS CONFERENCE ON MARITIME HELICOPTER PROJECT

Hon. J. Michael Forrestall: Honourable senators, I have several brief questions. I noted the delicate way in which the minister handled the prejudice and bias between her and her colleague from Winnipeg. I almost applaud it.

Could the Leader of the Government in the Senate tell us why, during this now-infamous June 5 press conference, LCol. John Mitchell told a noted Atlantic Canadian journalist, Mike Duffy, that the normal load of smoke markers is six, when the Sea King carries 12?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I could not possibly explain that statement. I was not at the press conference, as the honourable senator knows. I do not have a transcript of the press conference because I understand there was not one. I could not possibly answer that question.

Senator Forrestall: I am not sure I heard the minister correctly. Is she now indicating that there was not a press conference for damage control purposes?

Can the minister explain, then, why Col. Wally Istchenko suggested to the press that the new maritime helicopter only had to carry and process one type of sonar buoy when the requirement specifications call for the new maritime helicopter to process several different types of sonar buoys?

Senator Carstairs: Again, honourable senators, I have no idea why the statement was made. I was not there. I do not know why the statement was made in the way the senator has indicated. I will try to seek information on that. Frankly, if there is not a transcript of the press conference, and I am led to believe that there may not be, then I do not know how we can satisfy his particular questions.

Senator Forrestall: That sounds somewhat high-handed to me.

In the last several days, I have pointed out several discrepancies, each one in themselves not of great importance but, collectively, very important. How is it that these experienced people could make so many mistakes on factual issues when it comes to a major piece of military equipment? Was it to protect the government from the truth, that the new maritime helicopter will have less capability than the 40 year-old Sea King it will replace, so much so that the two kilogram washroom curtain providing simple privacy on board had to be removed to save weight?

Senator Carstairs: Honourable senators, the privacy curtain was removed for safety reasons, as the senator well knows. As he also knows, the statement of operational requirements is not the statement of operational requirements absolutely equivalent to the Sea King. It was never intended to be that. The Sea King is a very old aircraft. I do not think we would want to replace the Sea King absolutely as the Sea King currently exists, when we know that there have been enormous strides made in technology since the time the Sea King was built.

• (0930)

Senator Forrestall: That is hardly my point at all. My point is simply that the major shift in policy from “best value for taxpayer dollar invested” to “cheapest, least cost” now places the obvious winner of this competition, when the competition comes to fruition or to its final stages, in a position of offering effectively less of an aircraft than the Sea King, and that surely is not the intent.

Senator Carstairs: The honourable senator likes to use the word "cheapest"; the Government of the Canada does not. It is his word. The Government of Canada is still seeking the best possible aircraft for the armed services of this country.

[Translation]

DELAYED ANSWER TO ORAL QUESTION

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table a delayed response to three questions, beginning with one oral question along with two responses to questions on the Order Paper.

The first is in response to an oral question raised in the Senate by Senator Di Nino on March 18, 2003, concerning Citizenship and Immigration, backlog in processing files.

CITIZENSHIP AND IMMIGRATION

BACKLOG IN PROCESSING FILES

(Response to question raised by Hon. Consiglio Di Nino on March 18, 2003.)

By the end of the transition period for skilled workers on March 31, 2003, the Department had processed over 90,000 of the applications in the inventory which had been submitted prior to January 1, 2002. The Department processed as many skilled worker applications as possible given the competing priorities of family reunification, humanitarian and visitor cases.

Given the transition rules, as of April 1, 2003, applications still in the inventory are now being assessed under the skilled worker selection system of the *Immigration and Refugee Protection Act (IRPA)*. It is not possible for the Department to estimate how many of these cases would have passed under the former selection system. However, the Department has recognized that because these applications were submitted with the expectation of being assessed under the former selection system, it would be fair and equitable to assess them under a somewhat lower threshold. As a result, transition cases are being assessed against a pass mark of 70 instead of the pass mark of 75, which is applied to all other skilled worker applications.

ANSWERS TO ORDER PAPER QUESTIONS TABLED

VETERANS AFFAIRS—ALTERNATIVE FUELS ACT

Hon. Fernand Robichaud (Deputy Leader of the Government) tabled the answer to Question No. 70, raised in the Senate on February 25, 2003—by Senator Kenny.

NATIONAL DEFENCE—BUDGET

Hon. Fernand Robichaud (Deputy Leader of the Government) tabled the response to Question No. 3, raised in the Senate on October 2, 2002—by Senator Forestall.

[English]

ORDERS OF THE DAY

BUDGET IMPLEMENTATION BILL, 2003

THIRD READING—DEBATE ADJOURNED

Hon. Sharon Carstairs (Leader of the Government) moved the third reading of Bill C-28, to implement certain provisions of the budget tabled in Parliament on February 18, 2003.

She said: Honourable senators, I rise today to move Bill C-28, the Budget Implementation Bill, 2003, for third reading.

During the pre-budget consultations, a clear consensus emerged from the hundreds of Canadians who participated. They told the Minister of Finance that they seek a society built on their commonly held values, an economy that maximizes opportunity for all and an honest and transparent accounting of government's efforts to achieve those goals. This is the challenge Canadians have brought to their government.

The 2003 Budget responds to this challenge in three ways: First, it builds the society Canadians value by making investments in individual Canadians, their families and their communities; second, it builds the economy Canadians need by promoting productivity and innovation, while staying fiscally prudent; and third, it builds the accountability Canadians deserve by making government spending more transparent and accountable.

The 2003 Budget is based on sound financial management and a responsible stewardship of our resources, but it is also rooted in our values as we seek to give Canadians the tools they need to realize their potential.

In presenting his budget, the minister noted that Canada has now posted five consecutive budget surpluses and reduced the federal debt by \$47.6 billion. The budget projects balanced budgets in 2002 and over the fiscal plan to 2004. These are backed up by the \$3 billion contingency reserve. I might add that Canada is the only G7 country expected to record a surplus in the fiscal year 2002-03.

Honourable senators, I can assure you that it is the government's policy that there will be no return to deficit in Canada. Maintaining a balanced budget and reducing the debt will remain the anchor of our government's fiscal strategy, but economic success and fiscal discipline are only part of good government. They are a means to the much more important end, and that is to build the society so many Canadians value, where compassion and social responsibility are constant, concrete facts of national life.

Compassion and social responsibility are, in fact, part of the Canadian identity, and nowhere is this more true than in our commitment to quality, universal health care. It is a fundamental value of the Canadian people. The 2003 Health Care Accord, agreed to by the Prime Minister and Canada's first ministers in February, will improve access to health care systems, enhance accountability for health dollars spent and ensure that the system is sustainable.

To that end, the 2003 Budget commits \$34.8 million in increased federal funding over five years to meet the goals outlined in the accord. Bill C-28 implements these measures, which include a five-year, \$16 billion health reform transfer to the provinces and territories to target primary health care, home care and catastrophic drug coverage, areas identified by first ministers as areas of priority; an immediate investment of \$2.5 billion through a supplement to the Canada Health and Social Transfer to relieve existing pressures in the health care system; building on the significant federal support for health care provided through the CHST by increasing support to provinces and territories through transfers by \$1.8 billion, extending the transfer framework through to 2007-08; an additional \$1.5 billion over the next three years for the acquisition of diagnostic equipment and related specialized staff training; a restructured CHST with two distinct and separate transfers, effective April 1, 2004; and removal of the ceiling on equalization payments beginning in 2002-03.

Other health-related measures include \$600 million to Canada Health Infoway to accelerate the development of, among other things, electronic health records; \$500 million to the Canada Foundation for Innovation for research hospitals; and \$75 million to Genome Canada for applied health genomics.

At the same time, funding is targeted for governance and accountability initiatives, including funding for the Canadian Institute for Health Information and the establishment of a new Canadian patient safety institute. These measures will ensure that future generations of Canadians will have better and timely access to quality universal health care in every part of this country.

Working through Bill C-28, the 2003 Budget also strengthens the government's long-term commitment to Canadian children and families in several key areas. First, it provides additional support for children of low-income families through the Canada Child Tax Benefit, projected to bring the maximum annual benefit to \$3,243 or up to \$3,495 for a child under age seven in 2007. To assist low- and modest-income families with disabled children, the budget introduces a new indexed \$1,600 child disability benefit effective this July. Related measures include \$80 million per year to improve tax assistance for persons with disabilities, an expanded list of eligible expenses for the medical expense tax credit, including the incremental cost to individuals with celiac disease of acquiring gluten-free products, and measures to ensure that more infirm children are eligible for tax deferred rollovers on the proceeds of a deceased parent's or grandparent's RRSP or RRIF.

At the same time, the budget expands employment insurance benefits to include a new six-week compassionate care benefit to allow eligible workers to provide care or support to a gravely ill or

dying parent, family member, spouse or child. I think all senators are aware that this has been something I have long advocated. It has come to fruition, and I think it makes a significant difference across the country in the quality of palliative care when you can have a family member with you for six weeks and that family member does not have to worry about either job security or income during that period of time.

Honourable senators, the government's ability to make major long-term investments in the quality of Canadian life without jeopardizing our fiscal balance rests on a healthy, growing economy, and we recognize that better economic performance tomorrow requires a more productive, innovative and sustainable economy today. The budget introduces several measures to help meet that goal. One involves the acquisition of learning and skills. Budget 2003 commits \$60 million over two years to improve the Canada Student Loans Program, to put more money in the hands of students and to better enable post-secondary graduates to manage their debt. In addition, there are measures to improve access to interest relief for graduates who are in default on Canada student loans or who have declared bankruptcy and to make student loan assistance available to protect persons, including convention refugees.

• (0940)

In the 2000 Budget, the government introduced the largest tax reduction plan in history. To ensure that Canada remains a good place to invest and to boost the competitiveness of Canadian businesses, Budget 2003 builds on that five-year \$100 billion tax reduction plan. It introduces further improvements to the tax system and enhanced incentives for saving and investing in Canada.

First, the budget raises Registered Retirement Savings Plan and Registered Pension Plan contribution limits to \$18,000 over four years and indexes these new limits. Next, it supports small businesses and entrepreneurs through a number of tax changes, including a 50 per cent increase in the small business deduction limit to \$300,000 from \$200,000 over four years. Other measures eliminate the federal capital tax over five years, with medium-sized businesses benefiting first, and the \$2 million limit on the amount of small business investment eligible for the capital gains rollover.

As well, the budget improves the tax treatment of automobile benefits for employees and auto expenses for employers.

Two of the remaining measures in the bill provide for increases in federal taxes on tobacco products, effective June 18, 2002, and for voluntary arrangements with interested First Nations to levy a broadly based sales tax consistent with the GST.

Furthermore, the bill proposes three clarifying amendments to the Excise Tax Act to ensure that the longstanding and well-understood policy intervention underlying the legislation in the affected areas is respected.

As well, we are taking action in such vital areas of public concern as climate change, the environment and agriculture.

Honourable senators, the scope of the budget plan is dramatic. While time precludes me from discussing the remaining measures in any detail, there is one matter that I want to touch on.

In addition to managing taxpayers' dollars wisely, the government is committed to being more accountable to taxpayers for how it manages their money. That is why the budget includes enhanced accountability for the three foundations established under federal statute to ensure that any unspent funds are returned to the government should they be dissolved. There is also the termination of the Debt Servicing and Reduction Account and clear rate-setting processes for non-tax revenues, including EI contribution rates and the Air Travellers' Security Charge, which, as senators know, has been reduced from \$12 to \$7, each way, for domestic flights.

Honourable senators, the Standing Senate Committee on National Finance examined this bill and reported it without amendment. I know that the committee canvassed a wide range of elements in the bill, but one area that attracted considerable attention was the issue of a retroactive provision relating to GST rebates for school boards. The issue arises from a very complex set of facts, law and policy, and I do not want to detain the Senate with all of the details. However, I do want to acknowledge that senators did have concerns, which were shared by witnesses before the committee. Counsel for the affected school boards appeared at committee. The Canadian Bar Association and the Quebec Bar Association also appeared to offer their views on the policy basis for the measure.

The committee also heard from the Parliamentary Secretary to the Minister of Finance, Mr. Bryon Wilfert, MP, together with officials from the Department of Finance. Mr. Wilfert explained in elaborate detail why a retroactive measure was justified in this particular case. The justification is based on well-established practice for implementing tax measures and based on the criteria governing the use of retroactive legislation in the domain of tax policy. The committee did consider an amendment to limit the retroactive effect of the measure, but after careful deliberation, the committee rejected it. I believe the committee made the right decision.

Honourable senators, Budget 2003 provides important new investments to build the society Canadians value and the economy we need, and it does so without putting us back into deficit. It takes serious steps forward in our quest to build the society that Canadians value, the economy Canadians need and the accountability Canadians desire.

Honourable senators, I urge you to join with me in according Bill C-28 passage at third reading.

Hon. Gérald-A. Beaudoin: Honourable senators, last Thursday, in the National Finance Committee, I presented an amendment to Bill C-28. After having heard an impressive group of lawyers and constitutional experts — that is, the Honourable Marc Lalonde, former Minister of Finance of Canada; the Honourable Roger Tassé, former Deputy Minister of Justice; Simon Potter, President of the Canadian Bar Association; Claude Desaulniers from the Quebec Bar Association; and Yves St-Cyr from the Quebec

School Board Federation — I came to the conclusion that it is necessary to amend clause 64 of Bill C-28.

As Senator Bolduc stated clearly and adequately, the facts of this case are as follows: A group of school boards has obtained a ruling from the Federal Court that they are entitled to be reimbursed 100 per cent of the excise tax that they have paid, not 68 per cent, as the government is saying.

By virtue of the principle of *res judicata*, which is a principle of law that has been in force for many centuries, it is mandatory for the Crown to reimburse. If I have understood the facts clearly, there is no problem with the first group, but there is a problem with the second group. The experts who appeared before our committee said we apply to the same facts the same principles of law. If we reimburse 100 per cent for the first group that was before the courts, we should extend that principle of *res judicata* to the second group and reimburse them. In other words, instead of being paid only 68 per cent, they have the right to 100 per cent.

Many witnesses last Wednesday spoke about the question of retroactivity in that case. I do not think it is a very important question in the present case because it is part of the fiscal law to be retroactive, and in that case it is only partial anyway.

We are dealing with the principles of law established by the courts, that is, the rule of law applies, and when there is a judgment of the courts the *res judicata* applies, when the Supreme Court of Canada rules, that ruling becomes the law of the land. It is even part of the Constitution. We have the conventions and the text of the — Constitution, and we have the decisions of the courts on constitutional law.

• (0950)

Having regard to our constitutional law system, I cannot see how we may set aside the second group. The facts as established by my colleague Senator Bolduc are the same. Therefore, the same principle of law should apply, and most of the experts I have quoted at the beginning of this speech agree entirely with that.

In addition, we have jurisprudence. It is a question of law, of the administration of law. Some people think that, since we are in the field of taxation, the amendment I proposed cannot be received because it may necessitate an additional cost of money — \$18 million. It is true that more money will be necessary, but there is nothing in this case that is violating our parliamentary precedents and usage. There is nothing against the principle of constitutional law because the courts of justice in our system must rule on the interpretation of law, and also on the constitutionality of laws. It is their duty; it is their power. We, parliamentarians, have to accept their rulings even if it necessitates the spending of more money.

We have cases and cases on the constitutionality of laws, and when the Supreme Court says we are obliged to do this and this, in this Parliament we never raise the question of cost because a constitutional decision of a court necessitates the spending of more money because it is part of our system. It is not against the privileges of one house or the other.

The legislative branch of the state, Parliament, and the judicial branch have, in their domains, adequate, independent and strong powers. In my opinion, my amendment applies the principles of law as the courts interpret them. If the court says you must do this, and if it necessitates the spending of money, that is the end of it. There is nothing unconstitutional in that.

Honourable senators, I see that there is no encroachment on the powers of the Senate or the House of Commons, and we, the Parliament, must comply with the interpretation of the principles of law established by the courts. Whether it costs money or not is irrelevant. We sometimes hear people say that it costs money to go before the courts, which is true. The court may rule that Parliament must do this and that, and we have to comply, and if the need to spend money is involved, so be it. That is the end of it. There is no constitutional problem.

In conclusion, I would say that the principle of *res judicata* is part of our system of law, part of our administration of justice and of the rulings of the court. They have existed for many centuries, probably from the Middle Ages, perhaps even Roman times, but that is enough. I do not need to have 20 centuries.

MOTION IN AMENDMENT

Hon. Gérald-A. Beaudoin: Therefore, I move, seconded by Senator Bolduc:

That Bill C-28 be amended in clause 64, on page 55,

(a) by replacing line 19 with the following:

“into force on December 17, 1990, except in respect of cases in which school authorities and lawyers representing Her Majesty the Queen in right of Canada, have agreed to file consents to judgment before the appropriate court”; and

(b) by deleting lines 20 to 39.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion in amendment?

Hon. Sharon Carstairs (Leader of the Government): No. The argument that has been put forward by the honourable and learned senator, Senator Beaudoin, is clearly an important one, but one that, I think, has serious flaws. He makes no distinction between the so-called group 1 and group 2, but there is a considerable distinction between group 1 and group 2.

To put it in context for members of this chamber, when the GST came into effect, a policy with respect to the treatment of student transportation services and the related rebates to school boards was well understood and complied with by all school boards throughout this country. It provided for a 68 per cent, as opposed to a 100 per cent, rebate to the school boards across this country.

A group of tax consultants approached a group of school boards in the Province of Quebec and, on a contingency basis, at

no cost to the school boards, said they would like to take this case to court on their behalf, and they took it to the tax court and they lost. They then appealed it to the appeal court, and they won. That is the group of schools that were, therefore, reimbursed. They had a judgment, and because of that judgment, they were reimbursed.

The Government of Canada then changed the law, and that is what we are agreeing to today, but as you know, the government can impose tax law and then have it retroactively adopted by the House of Commons and the Senate. That is very much according to the rules and procedures that we have followed for a long time.

• (1000)

The second group of school boards did not have a judgment prior to the announcement by the federal government of its use of retroactive provisions. The retroactive provisions and their criteria are important for all of us to understand. The use of retroactivity is guided by a set of principles that were set out in the government's response to the 1995 report of the Public Accounts Committee dealing with the management of risks to the tax base.

The committee criticized the government for not taking action to amend the tax laws retroactively in order to protect the tax base following an adverse Tax Court decision. The committee called upon the Department of Finance to develop the criteria to be used to determine when it is appropriate to introduce clarifying changes to the law on a retroactive basis. No single criterion is intended to be determinative in and of itself, with the exception of the fifth criterion which pertains to the correction of obvious ambiguities and errors.

Honourable senators, let me take you through the others. First, the amendments must reflect a long-standing, well-known interpretation of the law by the Department of National Revenue. It is agreed that taxpayers require certainty, and a court interpretation contrary to that which the majority of taxpayers have expected and complied with would have an effect equivalent to a retroactive change in the law as taxpayers knew it. Not amending the law retroactively to counter the unintended interpretation could penalize the majority for its reliance on the long-standing interpretation. Thus, retroactivity is used for all of those who have been duly following the rule as it was established in 1990, that is, school boards straight across this country.

The second provision is that the amendments must reflect a policy that is clear from the relevant provisions and that is well known and understood by the taxpayers. In this case, the taxpayers, being the school boards, knew of this since 1991. The amendments are intended to prevent windfall benefits to certain taxpayers.

Finally, the amendments are necessary to preserve the stability of the government's revenue base. The action of the Government of Canada taken following the decision in the fall of 2001 — and the government made the decision in December of 2001 — was the correct one. It followed the prescribed policy. We are now implementing it.

[Translation]

Hon. Roch Bolduc: Honourable senators, the situation is really not so complicated. A Federal Court judgement says that the school boards, which had begun to submit claims for GST rebates between 1996 and 2000, were correct.

Each year after 1996, the school boards submitted their claims to the Tax Court of Canada. The government won, but on appeal, the Federal Court said: "No. That is not the way it is. The government must pay 100 per cent of these claims, not 68 per cent, as it was paying previously." That was in 2001. It was decided to group the 29 school boards together and hand down a single judgement, which is known as the *Des Chênes* School Board decision or group 1.

During this time, other school boards presented a request for a motion for judgement on the first judgement. The important thing, later, was that there was an agreement between the lawyers to suspend the proceedings and wait to see what happened. Finally, the judgement was handed down and it found in favour of the school boards. The suits then continued. There was an agreement, and then it went to appeal. The appeal was to be heard in December 2002.

Six days before the appeal, the government's lawyer submitted a consent to judgement to the school boards' lawyer. The other party read the consent to judgement, which contained a clause that was difficult to understand, whereby the Minister of Finance may reserve the right to make possible amendments.

The school boards' lawyer found that the decision made sense. He agreed on this point because it was a result of the other decision. The school boards involved filed their application. A third group of school boards, which had not filed an application, waited. However, a claim was being processed for group 2. There was a letter of consent to judgement from the government and the school boards accepted.

Six days later, December 21 to be precise, a Friday evening at 7 p.m. — shortly before Christmas — the Minister of Finance issued a release indicating that the government might review its decisions. And so things stood. Then came the 2003 budget. In the meantime, the school boards had pursued their legal action and won for the second time. The judge had ruled in their favour. Yet the government, in its February 2003 budget, amended the legislation with retroactive provisions.

The basic question is: Will the government, through its attorneys who consent to judgements, respect the decisions of its representatives or will the Minister of Finance use his discretion after the fact to introduce legislative provisions that disregard what the government's attorneys have said? That is what is at the heart of the debate.

Excellent legal professionals have appeared before the National Finance Committee. Roger Tassé, a well-known constitutionalist in Canada, agreed that this was the central issue. The Ontario and Quebec school boards also agreed.

Others who appeared before the committee include: Roger Desaulniers, a tax lawyer with 37 years of practice; Mr. Potter, President of the Canadian Bar Association, who made some remarkable comments; and a former minister of the Crown, Marc Lalonde.

I would like to read some excerpts from their evidence, because it is important that you know what this is about. I will start with Mr. Tassé. With regard to the school boards, he said:

Group 2, which includes cases in Quebec and cases in Ontario, is not exempt under the government's proposal.

In other words, they are not entitled to an exemption under this legislation. It simply states that retroactivity will not apply to group 1. This was stated after consent was given. I will read another paragraph:

On December 13, six days before the Federal Court of Appeal hearing, the department's lawyers tabled an offer to the school boards. The offer stated that if the boards withdrew their appeal based on the new facts, the department was prepared to consent to a judgement, as in the *Des Chênes* case.

All the school board representatives were acting in good faith, particularly since the lawyers had agreed to suspend the proceedings until a decision was handed down. That much is clear!

• (1010)

Mr. Tassé then goes on to say:

It should also be noted that the lawyers for the Crown had also offered consent to judgement. The lawyers for the Crown took the initiative of talking to the lawyers of the school boards in group 2 and proposing that they withdraw their appeal based on the new facts, in return for consent to judgement, and judgements were consequently obtained. Why propose consent to judgement if there was never any intention of acting upon it.

That is the real question. The government spoke out of both sides of its mouth. On one side, its lawyers spoke for the government and, on the other, so did the Minister of Finance.

The real issue is whether the administration from 1996 to 2001 was acting in good faith. In 1996, boards started to claim rebates and it was left to the administration to indicate — as is being argued today — that this provision is clear and that it does not entitle any claimant to a full rebate but to a partial rebate. Why not present an amendment on this right now? Instead, the decision was made to proceed through the courts, and this has taken many years, on the assumption that the courts might decide in favour of the government. Unfortunately, that is not what happened.

It is as if the government had decide to take the court route, but if that did not work out, it would take the legislative route. That is unacceptable. Anyone who has studied even a little law knows that.

I asked Mr. Tassé another question, and his response was:

Under the circumstances, I find it unacceptable to ask Parliament to allow the government to take the legislative route and change what was decided by the courts with the consent of the lawyers. This, to me, goes against one of the fundamental values of our country, that is respect for court judgements.

I can tell you that when such words come from a constitutionalist the likes of Roger Tassé, they are pretty potent. I also asked questions of Mr. Cyr. Honourable senators, when I say "I," that is a bit of an exaggeration, since there many of us who asked questions.

Later, Mr. Tassé said the following:

The school boards did not take action in time to make their claims carry some weight.

Mr. Cyr went on to say:

The only ones concerned are the Quebec and Ontario school boards that obtained judgements from the Tax Court of Canada subsequent to consent by her Majesty the Queen.

Mr. Tassé said:

The Minister of Finance should respect decisions by lawyers that have resulted in court decisions. Thus he would be complying with court judgements reached under consent.

This is therefore a legal issue that goes far beyond a paltry \$8 million for Ontario and \$10 million for Quebec. I think the total is \$18 million.

The Leader of the Government referred to budgetary constraints. Since when is the government unable to adjust its budget? Particularly since \$18 million is a pittance for the Government of Canada.

We have seen labour relations tribunal decisions that have amounted to hundreds of millions in connection with employment equity. How did the government manage to pay that? The amounts involved were \$300 million to \$500 million. That was not a government decision but a court decision. Odd, how they managed to find the money for that. Money is not a valid argument, in my opinion.

Mr. Desautniers gave the following evidence:

If there were a risk and if a system had been established specifically to prevent this kind of situation, why did they choose the court route rather than the more direct route of an amendment? That is the first question and the first consequence. If you choose the courts rather than an amendment, you must accept the consequences.

It appears that all the lawyers are unanimous on this point, and I shall read what Mr. Potter says, on page 29, because it is just so smooth. He is speaking on behalf of the Canadian Bar Association.

[English]

The Canadian bar speaks for about 38 lawyers across Canada. The reason its president is here today, rather than the president of the national commodity tax section, is that this amendment raises an issue that goes well beyond tax. It covers issues in all fields of law.

[Translation]

They are familiar with the case. They know very well that what he said is true.

The Leader of the Government in the Senate said that there are long-established government criteria. Five criteria must be met for acceptance. None of the criteria applies to this case. The criteria are not involved; I agree with them because they are very sensible. Moreover, I am not concerned about the retroactivity of the legislation. Certainly, in taxation matters, there has always been retroactivity, because the budget comes down one evening and, from that moment on, it takes effect. No one would dispute that fact; we all agree on that. That is not the point of the case. The point is much deeper than that.

I would like to point out Mr. Lalonde's letter, where he writes about trying to get retroactivity before the judgement in October. The government had tried that and it changed its mind. Mr. Lalonde wrote that the proposal had already been a dead issue since then, and it was with the greatest surprise that they found out about the provisions, which were even more despicable than the ways and means motion of February 18.

He adds:

But to our knowledge, the measure you are proposing concerning the school boards is without precedent in the history of the Canadian parliamentary process. If ever it were passed by Parliament, it would be a serious breach of the rule of law and its authority under our constitutional system.

These are serious allegations. This comes from Marc Lalonde, not just anyone, but a former Minister of Finance, a well-known legal expert from one of the most recognized tax law firms, Stikeman and Elliott. It is not just his word here; the reputation of his firm is also on the line. Let us be serious.

I would like to conclude with a quote from Mr. Potter, because he made remarkable statements.

[English]

This amendment signals that every time the tax border is successfully challenged by a taxpayer, we will be subjected to the possibility of a retroactive amendment that would destroy vested rights. This is troubling. If poor drafting or unintended and unforeseen tax consequences have to be neutralized through the use of retroactive amendments, the principle of tax certainty can no longer be relied upon by taxpayers.

[Translation]

That means lawyers can no longer advise their clients because they do not know what is going to happen. The following year the Minister of Finance might put forward an amendment with retroactive provisions. That does not make any sense whatsoever.

He adds:

If the retroactive aspect of the Deschênes amendment is not removed, it raises the spectre of a substantial tax compliance concern. That retroactive aspect seriously undermines our tax system. There is no justification for that retroactive measure.

In my view — and I am appealing to the legal professionals in the Senate — Senator Day, Senator Moore, Senator Joyal, Senator Kroft and several others on our side who are aware of this fact — we cannot allow this to happen. If there is a reason the Senate exists, it is precisely for this type of issue, where the government is abusing its power. We must correct the situation. We are wise people.

I understand that Mr. Manley does not have time and that Mr. Cauchon already has enough on his plate. It is complicated. I am appealing to the Leader of the Government in the Senate to meet with his two colleagues and demand changes. I assure you that, to lawyers across Canada, this is scandalous.

You must make an effort to accept this without partisanship. This oversteps the bounds of a healthy parliamentary process.

[English]

The Hon. the Speaker: I have Senator Gauthier rising on a point of order.

Senator Carstairs: Honourable senators, I wanted to ask Senator Bolduc a question.

The Hon. the Speaker: The point of order may take precedence. We should deal with the point of order.

[Translation]

POINT OF ORDER

Hon. Jean-Robert Gauthier: Honourable senators, I agree in principle that this is a mess, that our public servants have been incompetent. One even admitted to the committee that it was not a good day for some advisors to the Minister of Finance. I agree with the arguments presented.

• (1020)

I have had a problem for years. Is it in order for a Senate motion to be put to the Senate committee? I consulted

[Senator Bolduc]

Beauchesne's Parliamentary Rules and Forms, sixth edition, on page 184, Requirements for the Use of the Royal Recommendation, and I quote:

599. ...after the question has been proposed on an amendment, and it has appeared that the amendment would vary the incidence of taxation or increase the charge upon the Consolidated Revenue Fund, the Speaker has declined to put the question.

It is simple. We are told that this provision would cost Canadian taxpayers between \$18 million and \$20 million. The trustees of the school boards may well be right, and I support them. I was a school board trustee for twelve years. However, this involves powers that cannot be used here, including spending power. Commitments affecting the Consolidated Revenue Fund cannot be made. I stand to be corrected by the Speaker. I asked the chair of the committee this same question, as to whether this motion is in order under the conventions or the rules. I did not obtain a clear answer, and I voted against this motion in committee. I have not been convinced today. I ask the Speaker to rule if this motion is in order and is votable.

Hon. Lowell Murray: Honourable senators, Senator Gauthier is not satisfied by the answer that I, as chair of the committee, gave to him the other evening. I would like to try again. Before answering him, I want to say that the question is whether it is appropriate to call a point of order after the Speaker has received the amendment from Senator Beaudoin and put the question to the Senate.

[English]

Having already received the amendment and called the question and heard debate, the first question is whether it is in order now to reflect on its "receivability" for procedural reasons.

Second, as to the substance of the point of order — if the point of order is in order — this provision of Bill C-28 seeks to limit the liability of the Crown. The amendment of Senator Beaudoin would somewhat change the applicability of that provision of the law.

There are ample precedents, as Your Honour will be told by those at the Table who were here at the time, for doing very directly what my honourable friend Senator Gauthier has suggested. As one example, I give the long GST debate that we had here in 1990. Various amendments were proposed at that time to lessen the incidence of that tax. Those amendments would surely have resulted in, if not a direct charge on the treasury, the treasury being able to collect less tax than it had proposed to collect by way of the GST. One of those amendments that comes to mind — I am sorry that the honourable senator may not be able to intervene at this moment because I am sure she would support me if she were — was the attempt by Senator Fairbairn in a motion to remove the GST from reading materials. That amendment was defeated, but it was certainly receivable and was received, quite in order, by the Chair.

This is a far less direct attack, it seems to me, on the treasury, and it certainly does not impose any new tax on the taxpayers of Canada.

In my opinion, the precedents are abundant and are all to the effect of supporting the “receivability” of the amendment that Senator Beaudoin has proposed.

Also, His Honour might rule on whether, at this stage of the debate, it is in order to hear Senator Gauthier’s point of order at all.

[Translation]

Hon. Gérard-A. Beaudoin: Honourable senators, as far as the point of order is concerned, Senator Gauthier is forgetting that we parliamentarians are not the ones who are going to increase the budget. If that were the case, we might wonder about this. It is the court that said: “You have paid back 68 per cent of the excise tax paid, but you need to raise that to 100 per cent.”

Since when, in a democratic system such as ours, which is a constitutional masterpiece, must a court of justice abstain from judging and from interpreting legislation? Since when do we say: “If the constitutionality of legislation is to be determined, that is going to cost money, so you cannot do it”? You are ruining our system. It is amazing. There will be no system left. The legal system is in place in order to interpret legislation and determine its constitutionality. If this impacts on the budget, so be it.

It is not contrary to any principle of parliamentary democracy and not contrary to any principle set out in the Constitution. The court does its duty and we follow up on the court’s decisions. There have been hundreds of court decisions about the division of powers. In 20 years, there have been 450 cases involving the Charter of Rights in the Supreme Court, and of course, that costs money. But that is our system. Our Charter of Rights and Freedoms is wonderful and the Supreme Court does its work well. I cannot understand how such a point could be raised. If it were a parliamentarian — a member or senator — who said: “I do not like the budget; I would like to add another \$50 billion,” then we could perhaps discuss it. But such is not the case. The court said: “You must reimburse the tax and you must reimburse 100 per cent and not 68 per cent.” It will cost \$18 million. So? That is our system. If the court says that our law is poorly drafted, then we must start over and abide by the division of powers. The Constitution is important; it is the foundation for everything.

Oh, Heavens, it is going to cost money! So what? I cannot see how we can say it goes against the principles of parliamentary democracy. The court has simply done its duty, and we must do ours. And that is what we are doing.

[English]

The Hon. the Speaker: Do any other honourable senators wish to speak to the point of order? If not, I will ask Senator Gauthier for a final word.

[Translation]

Senator Gauthier: Senator Beaudoin is right, except that he is forgetting a fundamental principle: we do not have the authority

to spend. The authority to incur public expenditure requires a recommendation. There is no recommendation here. We all agree that there were probably difficulties and disagreements with regard to this issue. I agree.

• (1030)

In my view, we do not have the right to incur expenditures to the tune of \$18 million without a recommendation.

Hon. Roch Bolduc: They should do their work properly. What they have done is disgraceful. It is disgraceful to do that in the House. They are lawyers to boot. John Manley is a lawyer and Martin Cauchon is a lawyer. It is indefensible to do such things.

[English]

Hon. Francis William Mahovlich: Honourable senators, I was present at the committee, and in my simple way, I expressed my feelings on this matter. I see it as if a tub was filled with water, we knocked out the little plug, half the water was left, and, in the wisdom of the government, we put the plug back in. That is what really happened. It is that simple. I would rather take a bath in half a tub than no water at all. That is what we are voting on here.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, on the point of order, it is important that His Honour seize himself of the timing of the raising of this point of order. The time for it to have been raised was when the matter was introduced, not after a debate on the content of the motion was well underway. There is a reason for that rule in parliamentary procedure. In other words, you cannot raise a point of order after debate if you do not like the way a debate is going and try to undermine the debate by saying that debate ought not to have occurred at all.

The fact is that this matter was not raised as an issue of order. The proceeding was well underway, argumentation has been advanced, and to attempt to use a procedural technique to defeat the argumentation is not what is envisaged in the procedural literature.

Second, with reference to the Royal Recommendation, a bill coming from the other place must have the Royal Recommendation, and the bill before us has a Royal Recommendation. We do not initiate money bills in this house. We cannot do it.

However, before us is a bill with a Royal Recommendation, and that bill is being studied by the Senate. The Senate has the full right to examine any aspect of that bill that has been sent to it from the other place. If we see flaws in that bill, we are to act upon those flaws. We are the house of review. To try to hide behind a flaw that we have identified and are attempting to remedy, because the remedy that we would propose in and of itself does not have a Royal Recommendation, is faulty on several grounds. It is faulty on the grounds of species and genus. The Royal Recommendation applies to the genus of the bill; therefore, it is the umbrella under which any aspect of that bill that has been referred to this house is totally subject to review.

SPEAKER'S RULING

The Hon. the Speaker: I thank Senator Gauthier for his point of order and all honourable senators' contributions to the matter.

I should like to point out that the bill we are debating has received the Royal Recommendation. The second thing I should like to do is to read the rule of the Senate that, I believe, is relevant to this point of order. Rule 81 states that:

The Senate shall not proceed upon a bill appropriating public money that has not within the knowledge of the Senate been recommended by the Queen's representative.

I will deal first with the timeliness of Senator Gauthier raising the point of order because it is an important question. Senator Murray argues that once debate has commenced, it is not within the practices of this place, either by the rules or by the precedents, to do something to interfere with that debate for procedural reasons. I find that this is not what Senator Gauthier is doing. He raised this matter in committee and explained that he voted in a certain way because of his reservation about the Senate being able to proceed as we are on this question, and he is simply raising it again here at this point.

The real question is this: Is this amendment to the bill that carries the Royal Recommendation one with which we can deal?

The other interesting argument is that once the Royal Recommendation is given to a bill, does that open the door for Parliament, including the Senate, to do anything with it by way of spending additional money, simply because the bill carries the Royal Recommendation? My ruling on that question would be that the Royal Recommendation being given to a bill — a money bill, as we call it — does not open the door for this place to pass amendments to spend more money, or as our rule indicates, to appropriate public money. That is the province of the House of Commons, in my interpretation of this rule.

I do not want to get into the Constitution or into questions of law because it is not proper for me to do so. However, let me accept that Senator Beaudoin's point is to address something that is *res judicata*; that is, a court has decided that Canada is obliged to do something that involves the expenditure of money. Is it something that takes the Senate to a place where it could introduce a measure such as an amendment to a money bill, which Senator Beaudoin's amendment is, that removes the impediment to the Senate of not being able to appropriate money? My finding is that it does not do that. The spending of money, or appropriation of money, to use the wording of the rule, is not something we can do.

That brings me to Senator Murray's point, which is that the Senate has, in the past, received amendments which if passed would mandate the reduction of monies flowing to the general revenue for whatever reason. I do not believe that falls within the wording of "appropriation." That matter, I believe, is quite well settled; that is, the Senate could defeat a money bill or reduce expenditures. However, increasing the expenditures is the question.

I premise my ruling on my belief, based on my close attention to the comments of senators who spoke to the bill, that the amendment would involve the spending of additional monies to comply with, as has been described in the debate, a decision of the court that Canada is obliged to follow.

As painful as it is for me to do this, I find that the motion in amendment is not in order in that it is not in compliance with our rules because it does not carry the Royal Recommendation as to the additional expenditure of money that would be required. The fact that the question is *res judicata* does not change our rule in respect of dealing with an amendment that would involve appropriating or spending more money.

Honourable senators, I rule the motion in amendment out of order. We will now resume debate on the main motion.

Some Hon. Senators: Question.

On motion of Senator Nolin, debate adjourned.

• (1040)

PUBLIC SERVICE MODERNIZATION BILL

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Robichaud, P.C., for the second reading of Bill C-25, to modernize employment and labour relations in the public service and to amend the Financial Administration Act and the Canadian Centre for Management Development Act and to make consequential amendments to other Acts.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I rise to participate in the second reading debate on Bill C-25, and in so doing I would like to touch on the following issues in the 15 minutes available to me. The first is the right of all Canadians to participate in the Public Service of Canada. The second is the need to respect geographic participation and mobility rights, which is a fundamental value expressed in our Canadian Charter of Rights and Freedoms. Third, I would like to touch on the proposition that is contained in the bill to have part-time Public Service Commissioners, and fourth, the issue of the need for a strong whistle-blowing mechanism in any modernized public service.

Honourable senators, I will turn to the first matter because it speaks to the culture of a public service. It speaks to the fact that the public service is not an industry, it is not a corporation, and that the people who are served by public servants are not clients, they are not customers, but rather are the citizens of the country.

The citizens of the country are not only in a special relationship with its public service, but equally every citizen has the right to be a participant in that public service itself. I draw to the attention of honourable senators that the Universal Declaration of Human Rights, at article 21(2), provides:

Everyone has the right of equal access to the public service of his country.

That is carried forward as a human right in the world community, and finding protection under international treaty law binding Canada, for Canada ratified, many years ago, the United Nations International Covenant on Civil and Political Rights. We read, honourable senators, in article 25(c) of the International Covenant on Civil and Political Rights that:

Every citizen shall have the right and the opportunity...to have access, on general terms of equality, to public service in his country.

I was impressed by the speech that was given recently by our colleague Senator Ringuette, who spoke and drew our attention to some of the problems that exist in this country in terms of the geography and the place where Canadians are living, and how this principle of equal access to not only the service received from but, more important, the right to participate in the public service. Senator Ringuette's statement deserves further reflection. It is important that if we are modernizing the public service, this is an opportunity that we have to deal with the issue of the adequate and fair geographic opportunity for all Canadians to participate in the Public Service of Canada.

I will turn to my third point, namely, my concern for having a change that is proposed in this bill from a Public Service Commission that provides the necessary oversight to a commission wherein some of the members of the commission are part-time. This concerns me because I am afraid that the merit principle might very well unintentionally be watered down if we reduce the role of the Public Service Commission in overseeing staffing decisions, and turn part of the oversight role of the Public Service Commission into a part-time job.

The Public Service Commission has traditionally been responsible for hiring and promotions within government departments. It is tasked with making employment equity become a reality. It is where employees turn to appeal when they feel they have been unjustly denied an appointment. It is also the commission that is responsible for ensuring that the rights of public servants to participate in the political process, as provided for in sections 32, 33 and 34 of the existing Public Service Employment Act, are respected.

Honourable senators, in a speech before the Public Service Commission on March 21 of last year, the former clerk of the Privy Council, Jocelyn Bourgon, made this statement that I think deserves our attention. She stated:

The Public Service Commission was created by an act of Parliament in 1918, originally named the Civil Service Commission of Canada. This action by the Parliament of Canada represented a significant step towards creating a professional, non-partisan public service that has become known as one of the best in the world. The mandate of this Commission is rooted in the merit principle.

Ms. Bourgon went on to say:

Merit in the Public Service means competence, but it also means the absence of patronage [...], and non-partisanship, the requirement for political neutrality in serving the duly elected government of the day. In carrying out its responsibility, the Public Service Commission has been instrumental in building a professional, non-partisan public service; a great Canadian strength.

Why, then, does the government want to water down the mandate of the Public Service Commission? Why does it want to take the commission out of the day-to-day supervision of competitions for public service positions? How is it to play its role in promoting employment equity if it has limited say in the hiring process?

Currently, the Public Service Commission is headed by a president and two full-time commissioners who serve for 10-year terms. The commissioners all enjoy the rank of a deputy head of a department, and they are prohibited, honourable senators, from taking on any other employment, as in the words of the current Public Service Employment Act,

A commissioner shall not hold any other office in the Public Service or engage in any other employment.

They are able to devote, therefore, under the current model, their undivided attention to the mandate of the Public Service Commission.

Under this bill, we will have only one full-time president and two or more part-time commissioners. Part-time commissioners will be able to take on other work, subject only to the stipulation that it not be inconsistent with their duties. Why, at the same time that Bill C-25 waters down the merit principle, does it water down the ability of the Public Service Commission to carry out its mandate by replacing commissioners with full-time appointments with part-timers who will not be able to devote their full attention to the role of the commission? I find that not to be a move in the right direction, if indeed we are really intent on modernizing our public service and building on the strengths of the past.

Honourable senators, I will now turn to my final point in the remaining time available to me. In late 2001, the government put in place, perhaps with some urging from this house, a policy on the internal disclosure of information concerning wrongdoing in the workplace or, in other words, the government set in place a policy on whistle-blowing in the public service. It appointed Dr. Edward Keyserlingk as the federal Public Service Integrity Officer under that policy.

Internal policies on whistle-blowing are much more effective, however, when they go hand in hand with concrete and specific legislation that clearly sets out the protections extended to employees who report wrongdoing. In other words, whistle-blowing mechanisms are only as good as the anti-retaliation measures that are attached thereto.

• (1050)

The existence of such legislative protection is a critical factor in making employees confident that they can safely come forward without fear of repercussions to their own career paths or, indeed, their own employment.

The current integrity officer who has been operating under the policy has been quoted as saying that with the existing policy "...we do not have subpoena powers. We do not have a tribunal whereby we make a ruling and then make it stick according to some established form of legislation." Honourable senators, this bill before us puts that policy into legislation. You will find that in clause 11.1(1)(h), which states that the Treasury Board may:

(h) establish policies or issue directives respecting the disclosure by persons employed in the public service of information concerning wrongdoing in the public service and the protection from reprisal of persons who disclose such information in accordance with those policies or directives;

Honourable senators, good whistle-blowing legislation is unlikely to be successful if it is not very carefully drafted to include certain critical requirements. Those critical requirements, *inter alia*, include, one, protection for an employee who comes forward in good faith with information about wrongdoing in the workplace; two, protection for public servants who are the subject of vexatious complaints, or complaints made in bad faith by those who purport to be whistle-blowers seeking the protection of legislation; and, three, a complete set of appropriate remedies for the whistle-blowing employee who ought to have both the remedies available in legislation and all existing remedies provided in both the civil courts and by any grievance process.

Although Bill C-25 says that the policy would "provide protection from reprisal" for the whistle-blower, it does not actually include a mechanism for that protection, nor does it make it an offence in law to retaliate. The bill does not even mention protection for the employer when an accusation of wrongdoing by an employee is made in bad faith.

The Professional Institute of the Public Service and the Canadian Taxpayers Federation appeared before the Standing Senate Committee on National Finance during its hearing on Bill S-13, the Public Service Whistle-blowing bill. Both PIPS and the federation wanted to see the then Bill S-13 broadened to include a larger number of federal employees. Bill C-25 does not include any of the many Crown corporations.

The taxpayers federation believed that any whistle-blowing legislation must be guided by six principles. They are, first, that the whistle-blower must have reasonable belief of unethical activity, and that this belief be supported through physical evidence and evidence of gross mismanagement in the supervisory chain; that the whistle-blower must be able to make his or her claim to an independent body that is not subject to political influence; that the whistle-blower must be protected from any form of reprisal; that adequate legislative protection must exist to ensure that investigations are carried out in a manner consistent

with Canada's key criminal justice provisions of being innocent until proven guilty; that there should be adequate retribution and disciplinary measures for those individuals who seek to use the legislation as merely a shield to attack government policy or abuse the legislation with intent to personally harm others; and there should be a mechanism that allows for reporting through to appropriate legislative officials on recommendations for changes to various statutes.

Honourable senators, I would like to draw your attention to an important development. Yesterday, the Minister of Justice introduced a bill in the other place to deal more effectively with the issue of capital markets fraud. The government has made it a criminal offence for an employer of a private corporation to retaliate against a whistle-blower. The government now has its own document introduced into the other House. They have bought into the principle. The government itself, in its documents, states that:

Currently, these individuals who play a pivotal role in exposing fraud can be threatened by their employer in many ways, including loss of employment. The new Criminal Code offence is designed to protect those who expose wrongdoing.

Honourable senators, this chamber has played a helpful role in the ongoing sensitization process of alerting the government to the importance of having whistle-blowing mechanisms available, and having them available in the Public Service of Canada. The one paragraph of the bill which alludes to the principle, together with the bill that was introduced by the government yesterday in the other place, should fortify the committee to which this bill will be referred to take a hard look at improving the whistle-blowing mechanisms in Bill C-25.

Hon. Rose-Marie Losier-Cool (The Hon. the Acting Speaker): If there are questions of Senator Kinsella, it will be necessary for him to ask for leave to answer, since his time has expired.

Is leave granted, honourable senators, for Senator Kinsella to answer questions of honourable senators?

Hon. Senators: Agreed.

Hon. Donald H. Oliver: Honourable senators, Senator Kinsella commented on the fact that two of the commissioners who are now on the Public Service Commission will become not full-time but part-time. The honourable senator spent some time in his remarks discussing that, suggesting that it seems to be a problem.

Could the honourable senator give us some public policy reason why two of the three commissioners of the Public Service Commission should be removed from full-time to part-time? What can possibly be the rationale for something like that?

Senator Kinsella: I thank the honourable senator for his question. In my judgment, it is a critical issue. I do not know what could possibly be the public policy or public administration principle upon which such a proposal could rest. From the public administration standpoint, the work that has to be done by the Public Service Commission is onerous. It certainly is serious and has proven itself to be such from the time the Public Service Commission was founded back in the second decade of the last century.

It speaks to a mechanism that guarantees the merit principle. It speaks to a mechanism that has worked. It also speaks to the public service having a full-time and robust commission to provide the kind of oversight that the Treasury Board itself cannot provide. There is the assumption that the managers throughout the machinery of government, starting with Treasury Board, can manage things themselves.

As I said in opening my remarks, the public service is not like a corporation. The people of Canada who receive the service from the public service are not customers. The citizens of Canada are not clients. We are the citizens of Canada.

There is an important cultural difference between a public service commission and an ordinary private sector corporation in that the management principles, the public administration principles, which are encouraged, developed and, indeed, creatively developed by the senior managers at Treasury Board, permeate the public system, and well they should.

• (1100)

However, it is the Public Service Commission that protects the culture of the public service from being an ordinary business. Rather, it is there to protect such rights as the right of every citizen of Canada to have access to participate, himself or herself, as a public servant in the Public Service Commission. That principle flows from our sense of citizenship rather than from business management principles.

Hon. Pierrette Ringuette: Honourable senators, I wish to give my appreciation to Senator Kinsella for expressing the right of every citizen in our country to participate and the influence that this participation has in policy development. The commission is a formal institution. It has a life of its own and it has its own way of contributing, not necessarily through Parliament, but through its own means.

I also listened carefully to my honourable colleague's remarks in regard to full-time commissions and part-time commissions. I have read that a new arm's-length tribunal has been created with its own people to ensure the process of listening to complaints from the internal mechanism of the public service. The Public Service Commission has acted sometimes as employer vis-à-vis the unions and negotiating units and sometimes as the employees' representative toward the Treasury Board. There were conflicting mandates here.

Responsibilities and time requirements are being moved from the commission, per se, to this new tribunal. It will hear internal complaints. I agree that we have to seriously look at the new tribunal and how it will create an arm's length distance from the commission. It will have to deal with conflicting mandates from the commission.

Senator Kinsella: I thank the honourable senator for her comments.

Let me begin by making comments based on my limited experience as a deputy minister in the federal public service. It is certainly to be encouraged at the departmental level that labour relations and the cultural issues within a given ministry be resolved within that ministry. I believe that in recent years we have seen that effort increased and encouraged by policies of the Treasury Board.

With regard to the participation that occurs at the public servant level in the formulation of public policy, it was my experience that unless a given department had good participation from public servants who came from all parts of Canada, there was a tendency for a policy, a program or advice to the minister to be shaped with a very narrow mindset. I would not want to particularize matters, but it has happened that if something works in the axis of Montreal, Ottawa and Toronto, then we just make it fit in with the other parts of Canada. However, if public servants who come from the breadth of Canada are sitting around the planning table — and for me that was so terribly important — we would not end up with ministers receiving policies shaped by a narrow band, but rather a broad one. No one should be shoehorned into a policy developed with a limited view of the country.

I remain convinced that the role of the Public Service Commission, the civil service commission, is radically distinct from the management role of Treasury Board and that it operates on different principles. As far as public service labour relations are concerned, they must be developed. With regard to our experience of the Public Service Labour Relations Act and the history of labour relations in the public service, there has been arrogance along the way, but by and large, public service labour relations in Canada have not been too shabby.

Hon. Anne C. Cools: Honourable senators, I wish to join briefly in the debate on Bill C-25 and, in particular, the subject matter that we call the oath of allegiance. I am a great supporter of our system of governance in Canada, and I believe quite strongly that we should maintain the oath of allegiance. I would hope that the Senate committee would look at this particular matter.

I begin by reading Psalm 72. Remember, Canada is a dominion. Originally, the Fathers of Confederation had wanted to name Canada a kingdom. There was some concern that the sensibilities of the Americans would be wounded. Instead, Canada was named a dominion. The words were taken from Psalm 72, verse 8. Reading from the King James version:

He shall have dominion also from sea to sea, and from the river unto the ends of the earth.

That is a Psalm of Solomon. As we know, all the Psalms are beautiful, but the Psalms of Solomon are especially precious.

I wish to speak, if I could, a little about allegiance. It is called the law of allegiance. In particular, I should like to speak about the requirement that all of us here must take an oath of allegiance. I would begin by defining "allegiance." This word is derived both from Norman French and also from Latin, particularly the Latin word *ligare*, to bind, and the Norman French "allegiance," which was spelled a-l-e-g-g-e-a-u-n-c-e. "Allegiance" is defined as the natural, lawful and faithful obedience that every subject owes to the supreme magistrate who will not overstep his or her prerogatives. It is the tie or *ligamen* that binds the subject to the sovereign in return for that protection which the sovereign affords the subject.

We must understand that much of the moral fabric of the system is born from the oath of allegiance or has its source in the oath of allegiance, in that mutual set of duties that are owed back and forth, particularly if we look at issues such as the Queen's peace, mercy, justice and honour, the whole business of taxing, trials, courts and so forth. These mighty powers of allegiance and great duty are also buttressed by the awesome and frightening powers of the law of treason. The law of treason is born out of violation of the law of allegiance.

• (1110)

In Canada, allegiance was extremely interesting and extremely important. We must remember that Canada, as a country, has two origins. It has origins of a settled territory and it also has origins of what we would call conquered territory. If one were ever able to look at the discussions, for example, on the question of the 1763 Treaty of Paris and what was called the settlement around capitulation, we would discover that there was much debate and much discussion on the question of allegiance. In the conquered territories at the time, there were large numbers of French Canadians, Acadians and many other persons who were affected one way or the other.

Most honourable senators here will know that His Britannic majesty granted permission to leave to all those who wished to leave and was able to provide passage for them if they wanted to return to France, or wherever. To those who opted to stay, we also know that the grand grants that were given in respect to the rights to religion and the rights to the French language were later embodied in the Constitution Act of 1791, essentially civil law, language and religion.

I have a quotation that I want to read. On the question of allegiance, there was some concern that some people might be allowed to stay and live in a neutral state of allegiance. To those people, the very mighty British general replied: "They become subjects of the King." In other words, whoever opted to stay in Canada would become subjects of the King.

Allegiance in Canada has a slightly different history than that in some other countries because of the conquests and capitulation, as some have called it. At some point in this discussion, perhaps we can look again at the dialogue of Major General Amherst and the Marquis de Vaudreuil on the question of allegiance. It was a very difficult period of time, especially after they combined the

civil and military rulers in the person of one governor. I believe his name was General Murray.

In any event, I want to say strongly that this is part of our heritage, and it is a part of our system. It is something that should be maintained, fostered and held as a sacred thing. I know that when I first walked into this chamber and put my hands on a Bible and swore my oath of allegiance, I took that as a very solemn occasion. I took it very seriously then, and I take it very seriously now.

I shall be appealing to Minister Lucienne Robillard to seriously consider the reinstatement of the oath of allegiance in this particular bill. We must understand that everyone is not obligated to take the oath of allegiance, but it was always thought that higher officers of state or higher officers of the public service should have to take the oath of allegiance. In any event, I do think it is important that the oath of allegiance be given serious attention.

I wish to raise another point, which I hope the committee will examine. It has to do with the fact that this particular Bill C-25, by touching the oath of allegiance, is wandering into the area of Royal Prerogative. The relationship between Her Majesty in Canada, the Governor General and the Parliament of Canada demands, as is the law of Parliament, that any bill that touches the Royal Prerogative requires the Royal Consent. I have heard no mention of that yet. I thought that I should put it on the record.

If honourable senators will recall, some years ago we had a bill called Bill C-20. I think that it was known as "the clarity bill." At that time, Senator Joyal was one, but several senators, including myself, kept raising the question of the Royal Consent. In point of fact, the then government leader in the Senate, Senator Boudreau, at one point in time rose in this chamber and gave the Royal Consent. The committee should be mindful that, to date, there has been no indication that the Royal Consent has been granted in this instance.

I wish to read from Beauchesne's 6th edition. Paragraph 726 states as follows:

The consent of the Sovereign (to be distinguished from the Royal Assent to Bills) is given by a Minister to bills (and occasionally amendments) affecting the prerogative, hereditary revenues, personal property or interest of the Crown.

Later, paragraph 727(2), states:

The procedure with respect to signifying the consent is different from that in giving the recommendation of the Crown. The recommendation precedes every grant of money, the consent may be given at any stage before final passage, and is always necessary in matters involving the rights of the Crown, its patronage, its property and its prerogatives.

To the extent that the oath of allegiance is taken to the sovereign and is taken to Her Majesty, it is very clear that this bill touches on that particular Royal Prerogative. I would hope that the committee would take care to examine that in actual fact Her Excellency Adrienne Clarkson, the Governor General of Canada, has been consulted on this matter and has given her agreement, because the Royal Consent is a kind of a Royal Assent that comes first, although it is a different process. If perchance Her Excellency Governor General Adrienne Clarkson has not been consulted, perhaps this committee will find it in its wisdom to bring forth recommendations to see that that happens. What we are talking about here, as I said before, is explicitly the business of the sovereign.

Honourable senators, I should like to say that, quite often, there is so much misunderstanding about allegiances and loyalty. Allegiance is not interchangeable with loyalty. Allegiance is a peculiar, high form of loyalty coming out of the phrase "loyalty to the lord liege" — loyalty to the lord king.

In Canada, allegiance is not owed to governments or countries. Allegiance is owed to Her Majesty the Queen, the sovereign. The system has always comprehended that allegiance has to be owed to a single person undivided, a sovereign. That single person is the actuating power of the Constitution. In Canada, every aspect of our Constitution is actuated by Her Majesty the Queen. Whether it is a criminal proceeding in a court, a decision to prosecute, an appointment of a judge, an appointment to the Senate — whatever it is — the actuating power of the Constitution is the sovereign, in this instance, Her Majesty the Queen.

In many recent years there have been many serious attempts to lessen that power, to such an extent that large numbers of Canadians now believe that the role of the Governor General is a ceremonial one. I tell you, the Governor General in this country is not an ornament. Rather than mislead people and describe it as ceremonial, I say that Government House is no ceremonial home. Government House is a power house. What the Governor General does all day is sign instruments of power. This is something I feel quite strongly about.

• (1120)

Honourable senators, it is important that we understand that governments represent really the politics of the day and a decision of the day, but it is the sovereign who represents the entire country and the people of the country. The oath of allegiance is about that relationship between the individual citizen and the sovereign, the individual subject and that Queen. A characteristic of our system is the fact that every single individual has a particular and a peculiar individual relationship with the Queen. Every citizen is open to petition the Crown on any issue at any time. This is one of the marvellous things about our system — that almost personal relationship that is supposed to exist between subject and Queen.

Honourable senators, in view of all of that, I just plead that we will take a look at what I call this "law of allegiance," this particular change, and do our best with the subject-matter.

In closing, I would also like to say that I have had a conversation with Madame Robillard about this matter. I have

already spoken with the chairman of the committee, and I shall attend the committee meetings to raise the issue.

Senator Murray: You are most welcome.

Senator Cools: Thank you so much, my dear honourable chairman, one of the finest chairmen anywhere.

I would like to close by saying a few simple words: Long live the Queen! God save the Queen! Long may she reign over us!

The Hon. the Speaker: Do other honourable senators wish to speak?

Some Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: When shall this bill be read the third time?

On motion of Senator Carstairs, bill referred to the Standing Senate Committee on National Finance.

CRIMINAL CODE

BILL TO AMEND—MESSAGE FROM COMMONS—
REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the fifth report of the Standing Senate Committee on Legal and Constitutional Affairs (motion and Message concerning Bill C-10B, to amend the Criminal Code (cruelty to animals)) presented in the Senate on June 12, 2003.

Hon. George J. Furey: Honourable senators, I have the unusual opportunity of rising today to speak to you a second time in support of your committee's amendments to Bill C-10B.

This house instructed the Standing Senate Committee on Legal and Constitutional Affairs to consider and report on a motion of Senator Carstairs and on the message from the other place. Your committee heard certain witnesses explaining the reasoning of the other place.

I must say, honourable senators, that I feel that we are at a delicate stage in the legislative process. Bill C-10B is a good and popular bill for reasons that have nothing to do with the suggested amendments. It would be unfortunate in the extreme if our legislative process did not produce this bill at its ultimate conclusion.

I commend Senator Joyal's book to any senator seeking guidance on when and how this chamber has amended bills in the past. I was particularly happy to see that amending bills is a well-accepted function of this house in its modern constitutional form. I was also careful to note that Senate insistence on amendments is a much less common legislative fact. I take from this that there must be good, sound reason supporting Senate insistence on amendments.

It is with the greatest of caution that I suggest that in the present case such reasons exist to request that the other place consider our amendments at least one more time before this house takes a final decision on whether insistence is a wise policy. I would like to add, honourable senators, that I believe in and accept the concept and the principle of sober second thought. However, I also feel that it ought not to be translated into an unnecessary legislative roadblock.

That being said, there are good reasons to support your committee's amendments. For example, the present Criminal Code contains sections 444 and 445, clauses that prohibit killing commercial animals and domestic animals. Two courts in this country, the Court of Appeal in Quebec in the case *R. v. Ménard*, and the Court of Appeal in British Columbia in the case of *R. v. Brown*, have told us that these two provisions are in the Criminal Code as protections benefiting, not the animals, but the owners of the animals. The new bill introduces a new offence of killing all animals. It will now be an offence, if this bill is passed, to kill wild animals. That has never been the case before. Your committee amended this by removing this killing provision.

The reasons of the other place for rejecting our amendment focused on the fact that persons charged under the new offence can come to court and say that they have a lawful excuse. The reasons of the other place suggest that the phrase "lawful excuse" is a concept capable of allowing all of the legitimate animal killing that we have presently going on in our country today. With the greatest of respect to the other place, there are strong reasons to question this thinking.

First, Justice Sopinka in the Supreme Court of Canada decision *R. v. Jorgensen* says that holding a provincial permit will not constitute a lawful excuse in a Criminal Code offence. Second, Justice Dixon in the Supreme Court of Canada case *R. v. Holmes* says that the phrase "without lawful excuse" in most cases is just a representation of the ordinary common law defences, like mistake of fact or duress. The reasoning of the other place makes references to this Justice Dixon reasoning, but the other place fails to recognize that the *Holmes* case was a Supreme Court split decision on whether the phrase "without lawful excuse" meant anything at all.

In other words, this supposed protection upon which the other place is asking us to rely to defend all the accepted legitimate animal killing practices in the country, in my humble opinion, and in the humble opinion of the committee, is not a strong foundation.

Third, the Justice Department, under the reasoning of the other place, persists in the notion that this new set of words "wilfully killing an animal without lawful excuse" is simply a restatement of the present Criminal Code. Honourable senators, this is not the case.

• (1130)

The clauses in the present Criminal Code have been explained by courts of appeal in *Brown* and *Menard*, and these explanations rest on the ownership of a particular animal. These ownership clauses are now eliminated. The courts will be required to produce a new interpretation. I am not confident, nor is your committee, that the courts will simply reproduce the old understanding, because the words have been radically altered and are no longer related to animal ownership.

Honourable senators, your committee carefully considered the message sent by the House of Commons on the subject of Bill C-10B. The committee held meetings, as was pointed out, on the arguments contained in the message as well as on the debates that took place in the House of Commons on the Senate amendments. The committee heard from Mr. Paul Macklin, Parliamentary Secretary to the Minister of Justice, in order to fully assess the rationale for the decisions of the House of Commons on the Senate amendments. It was clear from this latter meeting that there is a fair amount of agreement in both Houses on the need for cruelty to animals legislation that recognizes reasonable and generally accepted practices involving animals, that is scientific research conducted in accordance with generally accepted standards, traditional hunting and fishing practices of Aboriginal peoples, reasonable and generally accepted practices of animal management, husbandry or slaughter. Where the houses differ, however, is on the methodology that should be adopted to ensure the legal recognition of such practices.

Therefore, in a spirit of cooperation, the committee has tried to make some accommodation to the other place. It accepts, with modification, amendment 4 dealing with colour of right. With respect to amendment 2, your committee has insisted on its original amendment because it remains convinced that this amendment offers better protection to individuals engaged in generally accepted practices involving animals, as referred to above.

The committee also remains convinced as to the merits of amendment number 3, dealing with Aboriginal peoples. However, the committee did make a change to the amendment in order to address concerns raised in the House of Commons that the Senate amendment as originally proposed would allow an Aboriginal person from one geographic area to go to another area where Aboriginal peoples have rights and make a claim under the proposed provision.

Honourable senators, your committee feels that the changes they have proposed are in the best interests of all Canadians, and hopes that this chamber and the other place eventually will be persuaded of this as well. As chair of the committee, honourable senators, I humbly request your support for our report.

[Translation]

Hon. Gérard-A. Beaudoin: Honourable senators, Bill C-10B is destined to go down in history. It began as Bill C-10. Over time and at the Senate's invitation, it was split in two bills, called Bill C-10A and Bill C-10B. The Senate sent the bill to the other House, which concurred in the division of the bill.

In my opinion, a precedent has been created. It should be noted that, subsequently, Bill C-10A received royal assent. The Standing Senate Committee on Legal and Constitutional Affairs was already considering Document C-10B, and the committee completed its work on this bill and then reported it to the Senate with five amendments.

The Senate adopted the amendments and sent a message to the House of Commons, which returned it to the Senate with a message. We are pleased that the House of Commons has accepted Amendments Nos. 1 and 5. With regard to Amendment No. 2, we insist on our original amendment, because we are convinced that it provides better protection to individuals engaging in activities involving animals.

[English]

Our committee also remains convinced as to the merit of amendment number 3 dealing with Aboriginal people, as we have said in our report. However, and I am quite sure that some other colleagues will intervene on this, the committee did make a change to the amendment in order to address the concerns raised in the House of Commons that the Senate amendment, as originally proposed, would allow an Aboriginal person from one geographic region to go to any area where Aboriginal peoples have rights and make a claim under the proposed provisions. We had a very interesting discussion in committee on this, with Senator Andreychuk and Senator Joyal *inter alia*.

[Translation]

So, there is agreement and a certain amount of disagreement. We had been considering Bill C-10A and Bill C-10B for nearly a year, and much of the work was done in committee. I am very proud of the committee's work, during which heard from well-known experts, particularly scientists.

[English]

As far as the protection of Aboriginals is concerned, it has always been my intention to study this problem more deeply. We made a mistake in 1867, in the Constitution. We did not give enough power to the Aboriginal nations. We corrected that in 1982, and now we have to do something more. I am quite glad that Senator Carstairs, the Leader of the Government in the Senate, has referred to our Legal Committee the task of studying the non-derogation clause. We have to find a solution. However, the fact that our Legal Committee is to study the question of non-derogation clauses does not solve the actual problem. The study that will start in the committee this summer will take a certain time, and pending that interval it is mandatory to vote our amendment as improved in the committee.

On the whole, this was a very interesting mandate that we received one year ago on this question of Bill C-10A and Bill C-10B, and I am quite confident that we may reach an

agreement with the House of Commons. I gladly leave time for the other members of our committee because the committee has worked tremendously well and long. I leave to them the pleasure of speaking on the five amendments.

Hon. A. Raynell Andreychuk: Honourable senators, I want to associate myself with the comments made by the two previous speakers, the chair and the deputy chair of the committee. This has not been an easy process, but I think that there was absolutely no disagreement in the committee at any time as to the objectives of the bill, and the government's objective in attempting to bring more focus to the fact that inhumane treatment of animals will not be tolerated, and that our view has evolved into how the treatment of animals should be taken care of today.

• (1140)

Because of this evolving standard, there are certain practices for cultural, religious, historical and practical reasons upon which we should not intrude. This bill, therefore, caused great difficulty for the committee in ensuring that current practices continue by virtue of this act and that the wording itself not preclude what we intended. Therefore, the first series of amendments was put forward. A second series of amendments, which we are respectfully asking the House of Commons to consider, have now been put forward.

I will not go through all the other amendments, but I do want to focus on the Aboriginal amendment. Previously, I raised some concerns about this amendment because, in all our discussions, we look at the wording. I think it is only fair that we not accept only one interpretation of the wording. In fact, the department would come and say that this is the interpretation that would flow in the courts. In my respectful opinion, the department's opinion is just one opinion, not the definitive opinion. If the department's opinion were the only opinion, then we would not have the myriad of cases and the number of times that citizens find themselves having to go to the courts for decisions. The department's opinions are not always upheld in the courts.

It is particularly important when we intrude on people's practices and livelihoods, as we are with hunters, trappers, fishermen and those involved in agriculture and animal husbandry, that we be very careful to canvass all possible and probable approaches and that we take the safest route in ensuring that those practices continue. Equally, we must be very careful not to intrude unduly on religious practices. I believe that the wording we have come up with and the reasons for the colour of right defence are the best protection for these situations.

With respect to the Aboriginal amendment, I commented last time on why we needed a reverse onus situation. I did not intend that to mean that Aboriginal people should not have a non-derogation clause. My frustration was, and continues to be, that we gave Aboriginal people their rights in the Constitution and that we continually, by process, by law, ignore their rights. In fact, in practice the government often passes legislation without full and adequate consultation and without full regard for the section 35 protections for Aboriginal peoples.

These are not just practices that we in our society wish to uphold. They are constitutionally guaranteed rights. We must be conscious to give effect to them. It is a sad statement in Canadian society that we have reached for non-derogation clauses to remind ourselves of our rights. Surely, we can do better. I hope that the committee, in studying non-derogation clauses, looks not only at the issue of non-derogation clauses but at how we can impress upon ourselves, the government and the bureaucracy that it is not tolerable in 2003 to continue to pay lip service to Aboriginal rights while we go on about the business of forming and defining our society without due regard for their rights and protections as stated in the Constitution.

It is not an answer for the rest of society to say that we think these are the best practices and rules by which we wish to live, when we have said to the Aboriginal people in the Constitution that they have a right to determine their own destiny, subject only to the identifiable qualifiers in the Constitution, not a qualifier of disregard and disrespect for those sections of the Constitution.

I thank Senator Joyal for his consideration when he originally proposed the Aboriginal amendment. There was a phrase used about protecting the harvesting rights of Aboriginal peoples in any area in which they have harvesting rights. Because there are so many examples of Aboriginal treaties, agreements and practices, one interpretation of the words "any area" — perhaps not the most important interpretation or perhaps not one the courts would have brought against this area — could have meant that once Aboriginal people have gained rights for hunting and trapping, they could go anywhere in Canada and exercise those hunting and trapping rights. In fact, that would not be in keeping with previous agreements, practices, traditions and rights. This could lead to some confusion.

The committee accepted that it would be more appropriate to say "in the area in which the Aboriginal person has harvesting rights," thus protecting the existing rights of all Aboriginal peoples to hunt, trap and fish where they have traditionally carried out those practices. Thus, where they are undefined, Aboriginals will continue to have the discretion to hunt, trap and fish as their ancestors had. Where Aboriginal people have overlapping rights, and I recall Senator Gill discussing this issue, the customary practices of Aboriginal peoples would apply. Consequently, there would be no intrusion on those rights.

Where Aboriginal rights have been clearly defined and accepted within treaties, those will be the hallmarks of how Aboriginals will hunt, trap and fish. The new wording clearly states that we support all Aboriginal rights for harvesting in the traditional manner, where they have done so before, without intrusion. Therefore, there should not be any misunderstanding or confusion by this further amendment. I accepted that the House indicated there was some confusion. I believe they should now accept our amendment because it erases the confusion.

Surely, the House did not mean that the confusion is that there are still existing treaty rights to be negotiated. In fact, we are in that process. However, in those cases, there are protocols for the administration of justice in each province as to how they enforce the criminal law, and those will apply. This will not open up a new

area or set a precedent. For example, in Saskatchewan, where the administration of justice follows a protocol as to how to approach the Metis in regard to their hunting, fishing and trapping rights, this section will now follow suit and be part of those protocols.

With the further consideration of the comments made by the House of Commons, I think we have cleared away any misunderstandings and any legitimate differences of opinion that could be raised by the interpretation of this section. I believe that we should put this Aboriginal section back into the act.

The Canadian government continues to say, and Senator Carstairs very strongly expressed this point, that it is the will of the government to look at non-derogation clauses. This would not be the time to pull a non-derogation clause away from Canadians. This would be seen as the government acting differently from the way it has in the past.

• (1150)

The Prime Minister has said, in his own speeches, that he is committed to Aboriginal issues. While non-derogation clauses seem to be a stopgap measure, they are nonetheless a positive sign that we do care what we put into our Constitution, and that we do place great emphasis on it. To remove such a clause now would be to send the wrong signal to Aboriginal people. Therefore, I strongly suggest that this house accept the amendments that we have put forward, and that the House of Commons and the government take the lead in encouraging, where they can, both this house and the other House to accept our amendments. There would then be consistency when we say we respect Aboriginal rights, and that we need this legislation to protect animals in the future in a more humane way than perhaps we have in the past.

On motion of Senator Robichaud, debate adjourned.

ANTARCTIC ENVIRONMENTAL PROTECTION BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-42, respecting the protection of the Antarctic Environment.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Robichaud, bill placed on the Orders of the Day for second reading two days hence.

INJURED MILITARY MEMBERS COMPENSATION BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-44, to compensate military members injured during service.

Bill read first time.

SECOND READING

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

Some Hon. Senators: Now.

Hon. Joseph A. Day: Honourable senators, I therefore move, with leave of the Senate and notwithstanding rule 57(1)(f), that Bill C-44 be read the second time now

The Hon. the Speaker: Is leave granted to hear this matter now?

Hon. Senators: Agreed.

Senator Day: Almost eight years ago, honourable senators, a Canadian soldier serving in Croatia was travelling on a road that was supposed to be cleared of land mines, but his vehicle hit a land mine. When he woke up in hospital, he had lost both legs.

Honourable senators know about land mines. We do a lot of work with respect to them, and I am very proud of being part of the work that we do. With respect to this particular situation, we have an opportunity to rectify another wrong.

That officer's name is Major Bruce Henwood. As he began his struggle to learn to walk with two artificial legs, he found that he had another difficult struggle ahead of him. He learned that he was not covered by insurance and he did not receive a lump sum payment for the dismemberment that he had suffered. He had been forced to pay into this program, like all officers. He learned, as he proceeded through this struggle, that generals had that insurance coverage. Had there been a general in that vehicle, the general would have received compensation for the loss of his legs. Had it been any one of us, honourable senators, we would have received compensation. However, non-commissioned officers were not covered by the same insurance.

Major Henwood felt that this was wrong. He felt that this injustice needed to be corrected, so he began a long struggle to convince the Department of National Defence to change the rules to make the insurance coverage the way he felt, and the way all of his colleagues felt, it should be. He was doing this not for himself but for all of the other members of the Armed Forces.

The Senate committee took up this matter when it was brought to its attention. Honourable senators have heard from several members of our Subcommittee on Veterans Affairs, pointing out the injustice of this situation. To his credit, when the Minister of National Defence, the Honourable John McCallum — and he was fairly new to this ministry, as honourable senators will recall — learned of this situation, he stated that this situation was not acceptable. He said that, like other Canadians, he was struck by the unfairness, and he immediately started the process of changing the situation.

He also assured the committee that he fully believed that if the anomaly was unfair today, it had been unfair since 1972 when this insurance program was first implemented. He stated, however, that the implementation of retroactivity was difficult and would

take some time. The Minister of National Defence, at the time of our hearing, as seen in the Senate report of April of this year, announced immediately that coverage for dismemberment would be a lump sum payment. Had this accident happened after April of this year, Major Henwood and any other individuals would be covered. The retroactivity from 1972, when the insurance program first went into place, and the time of the announcement this year, has now been covered by Bill C-44. That is what it deals with. This is a commitment by the Minister of National Defence, which he has met, yet applies for the period of time from 1972 through to February 12 of 2003, when the other announcement was made.

This is not a complicated bill, honourable senators. It is exactly what was asked for by your committee and brought back to this chamber, and no more.

Honourable senators, this is a triumph for the work of the Senate. This is a triumph for the Minister of National Defence in his understanding of and compassion with regard to correcting a serious injustice. Most of all, this is a triumph for Major Bruce Henwood and his wife.

• (1200)

Hon. J. Michael Forrestall: Honourable senators, it is an honour to participate in this debate on Bill C-44, to compensate military members injured during service.

As honourable senators know, Canadians have been actively in harm's way for a long time now. This bill, hence, is long overdue. If there were one immediate criticism of the bill, it would be that it took this long for not only the present government but a series of governments to deal with it, to move and to compensate Canadian Forces members for loss of limb or other dismemberment.

Honourable senators, soldiers, sailors and aircrew are different from the rest of us. They operate under a contract of unlimited liability, which, in essence, means that they sacrifice themselves, if need be, so that other Canadians might live a normal and peaceful life. General Sir John Hackett once mused that the whole essence of being a soldier was "to offer yourself up to be slain and not to be the slayer." Honourable senators, soldiers sacrifice themselves for the rest of Canadian society and for the rest of the world. That, to me, and I am sure to all of you, is a pretty selfless position.

In 1995, as Senator Day has just indicated, Major Bruce Henwood tragically lost both legs while serving with the United Nations in Croatia. Some of you might wonder why I ask, sometimes almost rhetorically, are our men and women protected? Do they have all the protections they need for themselves and their families? I ask that because, in this case, the United Nations did not help. Their program did not help. We must always be alert and conscious of these men and women that we place in harm's way so that we might enjoy peace here.

To people such as Major Henwood, a good man, a fine soldier, a true, unsung Canadian hero, go the credits and the laurels for bringing this matter to pass.

In the past, under the Service Income Security Insurance Plan, SISIP, as Senator Day has indicated, everyone below the rank of colonel received income protection to the tune of 75 per cent of their salary in the event that they suffered long-term disability or dismemberment in the line of active duty — 75 per cent. How is that for a grateful nation? Imagine losing your legs or an arm, and the nation decides that it is worth 75 per cent of your salary.

I would be somewhat remiss in not telling the chamber that Major Bruce Henwood appeared before the Subcommittee on Veterans Affairs, not for himself, as Senator Day has indicated, but on behalf of other Canadian Forces personnel, to ensure that they received the compensation they required and deserved in the event of tragedy. That is courage. In committee, we found that parliamentarians, colonels and general officers, the RCMP and senior executives of the public service received a lump sum payment in the event of accidental death and/or dismemberment. Why the difference for our soldiers, sailors and aircrew, who put their lives on the line year in and year out, day in and day out? Are Major Henwood's legs less valuable than, say, yours or mine? Does he and veterans like him in Canada's foreign wars not deserve our highest considerations for such losses?

I am glad to say that the government has seen the lack of wisdom in the past, and this government, on behalf of several governments before it who failed to see the devil in their ways, has moved to address this issue and to right these human tragedies through Bill C-44. Its stated purpose is:

...to provide compensation to serving and former members of the Canadian Forces who suffered an injury attributable to service that resulted in dismemberment or the loss of sight, hearing or speech, and who were not entitled to a lump-sum payment under an insurance plan provided by the Government of Canada.

I am also relieved and indeed happy to say that this bill applies to all members of our reserves as well as our full-time soldiers.

The terms of compensation are set out in clause 4 of the bill. I commend its reading to all honourable senators. We are here, after all, to help protect those elements of society that cannot do it for themselves.

Clause 5 states that lump sum payments are limited to \$250,000 for members of the regular force, Class "C" and Class "B" reservists, but it limits compensation to \$100,000 for class "B" reservists under 180 days and Class "A" reservists in the same category. At the risk of infringing upon prerogatives, let me just add, parenthetically, if you will, that this is perhaps short-sighted but does not, in any way, detract from what is a very welcome piece of legislation.

Clause 7 makes compensation retroactive. Indeed, for those personnel who have passed away, it provides their estates with a mechanism to seek compensation.

The bill leaves great discretion to the Minister of National Defence, a problem found in a number of the government's recent pieces of legislation. Let us hope that the ministers, both the

Minister of National Defence and the Minister of Veterans Affairs, use their powers with God's guidance to speed compensation, to cut through red tape, and to clear up matters that constitute the backlog. It, incidentally, is not over-burdensome.

Bill C-44 also makes coordinating amendments to several other acts, including the Aeronautics Act, the Canada Shipping Act, the Canada Courts Administration Act, and later, when given Royal Assent, the Public Service Modernization Act.

No bill is perfect, but this Bill C-44 is, sadly, much needed now. Today, honourable senators, we will be able to look Major Henwood, a Canadian hero, in the eyes and say thank you for this bill. I know that Senator Meighen and other senators on the Subcommittee on Veterans Affairs of the Standing Senate Committee on National Security and Defence will salute the ministers for their prompt response to Major Henwood's plea for justice. I appreciate it very much indeed.

Hon. Douglas Roche: Honourable senators, I wish to go on record as fully supporting this bill. I align myself with the speeches of Senator Day and Senator Forrestall.

[Translation]

Hon. Marcel Prud'homme: Honourable senators, we have an expression in French that I think is the same in English: "Better late than never."

I am very pleased with this bill. It will help me somewhat in accepting two major errors of the past.

[English]

I never accepted the dismantling of the Airborne Regiment. I especially never accepted the closing of the military college at St. Jean. If I had been the chairman of the Quebec caucus, I can tell you that there would have been a fight like you have never seen, because I can still organize demonstrations for a very special purpose. We now are making up for errors made in the past. There is a debate in the military because of the diminution of bilingual officers that is directly related to the closure of the Collège militaire royal de Saint-Jean. The dismantling of the Airborne Regiment was a fatal mistake that could have been corrected. We need that regiment in Afghanistan, and I am extremely worried about what could happen to Canadian soldiers posted there without the benefit of the regiment's presence. Kabul is a very dangerous area. Surely honourable senators would join with Senator Day, Senator Forrestall and me to applaud this proposed repair of a past mistake.

• (1210)

The Hon. the Speaker: Is the house ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

Hon. Joseph A. Day: Honourable senators, at second reading we would normally ask that the bill be referred to committee. However, I would move that we proceed to third reading at this time.

Hon. J. Michael Forrestall: I had thought that if it were the wish of government to proceed in that way, then certainly from this side, that would be in keeping with the process to deal with the matter at all stages.

I am uncertain as to whether the House of Commons will adjourn today. If it does, will it be at the call of the Chair to deal with matters such as this? If that is not the case and the House has not adjourned, let us proceed to third reading and send the bill back to the other place.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, it will not matter whether the House rises today. As a matter of principle, we should refer this bill to committee. The committee is meeting on Monday. I believe they can meet, deal with this bill quickly and return it to the Senate for third reading as early as Monday evening or Tuesday afternoon. There would have to be, of course, Royal Assent, for which we do not need the other place. The committee should have the opportunity to examine the bill to ensure that it meets with the committee's expectations. The committee could then return it to the house quickly for third reading.

Senator Robichaud: With no amendments.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I had planned to rise after Senator Day and Senator Forrestall had spoken at second reading to ask a matter of detail. However, I assume that this matter of detail could be asked in committee, but I would raise the matter now in respect of clause 4(1) and clause 4(2) of Bill C-44. Clause 4(1) states:

A person who, while serving as a member of the regular force, or a member of the reserve force performing Class "B" Reserve Service for more than 180 days or Class "C" Reserve Service, suffered an injury that resulted in a loss set out in column 1 of the schedule during —

The reader is referred to a column in the schedule at the back of the bill and finds that the soldier would receive \$125,000.

Clause 4(2) states:

A person who, while serving as a member of the reserve force performing Class "B" Reserve Service for 180 days or less —

The reader is referred to a different column in the schedule and finds that the soldier would receive \$50,000.

My concern is technical. Compensation for a soldier's loss of a hand while serving less than 180 days, perhaps because the soldier had just been assigned, would be worth \$50,000. However, if the

soldier had been serving more than 180 days, compensation for the same injury would be greater. I do not understand why that is. There must be a reason.

We only deal with the principle of a bill at second reading, unless Senator Day would care to speak to that now. There is a reason why a committee would deal with that.

Senator Day: The committee would be pleased to look into that on Monday.

On motion of Senator Day, bill referred to the Standing Senate Committee on National Security and Defence.

[Translation]

NATIONAL DEFENCE ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-35, to amend the National Defence act (remuneration of military judges).

Bill read the first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Robichaud, bill placed on the Orders of the Day for second reading two days hence.

[English]

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

ELEVENTH REPORT OF COMMITTEE ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Milne, seconded by the Honourable Senator Joyal, P.C., for the adoption of the eleventh report of the Standing Committee on Rules, Procedures and the Rights of Parliament (Senators Attendance Policy) presented in the Senate on June 12, 2003.—(*Honourable Senator Cools*).

Hon. Serge Joyal: Honourable senators, Senator Cools has informed me that she had to leave the chamber because she is travelling to Edmonton. The honourable senator asked me to inform the house that she had the opportunity to review the report of the committee; that she is satisfied with its content; and that she would concur with the decision of this house to adopt the report.

Hon. Marcel Prud'homme: Honourable senators, I am able to concur with Senator Joyal's comments.

The Hon. the Speaker: Is the house ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators do adopt the motion?

Motion agreed to and report adopted.

• (1220)

TRANSPORT

STATE OF AIR TRAVEL IN CANADA—INQUIRY

On the Order:

Resuming debate on the inquiry of the Honourable Senator Cochrane calling the attention of the Senate to the state of air travel in Canada.—(*Honourable Senator Comeau*).

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I rise to speak today to Senator Cochrane's inquiry to call the attention of the Senate to the state of air travel in Canada.

Honourable senators will recall that the Air Travel Complaints Commissioner's report that came out earlier this year went to the Minister of Transportation. This recent report made four recommendations. The first recommendation was that air carriers should show the true cost of an airline ticket, and second, that air carriers should avoid advertising that can be misleading. Some carriers have been advertising fares one-way when the actual ticket can only be purchased on a round-trip basis. Therefore, the real fare for the trip is double what the advertising reads.

The third recommendation is that air carriers should publicly and prominently display the air carrier's liability. With the growing popularity of electronic tickets, this information is no longer provided in a manner that attracts the passenger's attention. The fourth recommendation is that the air carrier should compensate a passenger downgraded from full service to no-frills service.

During the period covered in the report, the Air Travel Complaints Commissioner received 4,950 complaints. That, in itself, sustains the issue that Senator Cochrane raised.

I was surprised to see that the report did not address some areas, including the area of public health aboard aircrafts flying within and across Canada. Honourable senators may recall that I had asked a question of the government leader about the responsibility for public health aboard aircraft. That question was asked just before the Christmas break. I did receive a written response prepared by Health Canada that said, in part:

Health Canada is in the process of completing an integrated public health program to protect the health of passengers on conveyances operating in Canada.

It went on to say:

The airline industry is one of the last remaining aspects of the travel industry to participate in this fully integrated public health program. Health Canada is currently in negotiations with the airline carriers and anticipates the implementation of the voluntary compliance program within the next year.... The public health guidelines will address water and food safety, general sanitation and disease surveillance on board aircraft.

Honourable senators, I fail to understand why Health Canada would be currently negotiating voluntary compliance in the area of public health, particularly in light of the current crises in the area of public health. Let me repeat the areas for which the department is preparing these voluntary guidelines: water and food safety on aircraft, general sanitation and disease surveillance on board aircraft.

Honourable senators, not too long ago, I was waiting to board a flight at Dorval airport. Before my departure, there was a flight going to Bathurst, New Brunswick. The public announcement system carried an announcement to tell the passengers on the flight from Dorval to Bathurst that the washroom was not working on that airplane. I noticed some passengers making a rush for the public washroom at the airport. I know that that flight is longer than an hour and a half. I also know Bathurst, New Brunswick. It is a wonderful community, and I invite you to visit it in my province of New Brunswick. However, Bathurst is not an aeronautical maintenance centre by any stretch of the imagination. If the washroom could have been repaired, it would have been more easily repaired at Dorval than at Bathurst, New Brunswick.

What would have happened if someone had used the washroom on that flight between Dorval and Bathurst? There are serious public health issues that are associated with air travel.

The Minister of Health has the authority under the Department of Health Act to provide the necessary protection to the flying public as stated in section 4.2 of that act. The minister's functions and responsibilities relate to the following matters:

(e) the protection of public health on railways, ships, aircraft and all other methods of transportation, and their ancillary services;

Honourable senators, not only does the Minister of Health already have the authority, and indeed the responsibility, to ensure public health for air travellers in Canada, but also, let us consider what the Canada Labour Code provides in terms of a safe working environment for those who work on those aircraft. I invite you, honourable senators, on your next flight, to pay a visit to the washroom and make your personal assessment.

Honourable senators, international carriers flying into Canada and departing Canada should be subject to the standards set out by Health Canada in the area of public health. Again, I come back to the fact that, according to the department, they are only at the negotiation stage and, indeed, only at the voluntary compliance level.

The Health Canada Web site states that:

The Public Health Bureau provides potable water, food safety and general sanitation consultation and advice. The Bureau also implements voluntary compliance programs and carries out food & sanitation inspections on airlines, ferries, cruise ships, trains and federal lands facilities.

However, when I return to the response provided to me by Health Canada, it states that the department is only at the negotiation stage with the airline industry for the general sanitation components, which "will address availability of toilets, hand basins, hot and cold running water, and cleaning of washrooms."

The response from the department continues: "Furthermore, the general sanitation component will address the cleaning of air vents."

Can you imagine that, as of today, there is no regulation for the cleaning of air vents on aircraft? It would be interesting to take a swab from inside an air vent and have it tested. Then again, perhaps we do not want to know, as we are all captives of that particular industry.

Honourable senators, we have had an airline industry in this country since 1937 when TransCanada Airlines Incorporated took to the skies. We have had public health laws since Confederation. I find it difficult to believe that we are only at the negotiation stage for public health for the flying public. Furthermore, when this process is finished, it will only be a voluntary compliance program. Voluntary compliance may have been good enough in the past when the airline industry was in a position to provide first-class service to the travelling public. That is no longer the case. I fear that the corner-cutting may jeopardize the health of Canadians flying.

I am sure that if the Canadian public were aware of the lack of regulation in the area of public health aboard aircraft in Canada, the Air Travel Complaints Commissioner would be hearing from a lot more than the 4,950 people he heard from in his last reporting period.

• (1230)

The Hon. the Speaker: I must advise honourable senators that if Senator Cochrane speaks now, her speech will have the effect of closing the debate on this inquiry.

Hon. Ethel Cochrane: Honourable senators, I rise today to turn the attention of the Senate once again to the problems, as did Senator Kinsella, plaguing air travel in this country. When I last rose on this topic, I spoke in some detail about the much-maligned Air Travellers Security Charge.

Honourable senators, as you heard Senator Carstairs today on Bill C-28, she alluded to the fact that yes, there was a little relief in regard to this Air Travellers Security Charge. The cost now sits at \$14 for a return trip within Canada. I remind honourable senators that this fee is still significantly higher than the \$7.65 Canadian that our neighbours to the south pay. It is more than the roughly \$8 Australians pay, and still more than the \$12.42 security charge

that is levied even in Israel. Still, I suppose Canadian air travellers welcome any reduction. It is important to recognize, however, that it is merely a first step, a baby step, on the long road to making air travel available to all Canadians.

Now more than ever, Canadian air travellers are relying not on government but on industry for relief to the high cost of air travel. While the advent of WestJet, CanJet and other so-called no-frills airlines seem to have helped make flying somewhat more affordable, today many Canadians are finding short-haul flights to be too expensive. Indeed, many business and leisure travellers have stopped taking them when at all possible. This has caused, as was warned prior to the implementation of Air Travellers Security Charge, certain routes to become wholly unprofitable. Naturally, the profit-driven airlines have begun cutting such costly routes, and the end result, as predicted, is that some communities have been left with little or no air service.

The Air Transport Association of Canada attributes this reality to the crushing burden of fees and expenses. In the report it released last November, it states: "The cumulative effects of an increasing number of taxes and fees jeopardize small airports and the economic prosperity of the regions surrounding these airports."

In my own community, we are experiencing this firsthand. In September, Air Canada announced it was discontinuing service to Stephenville altogether, beginning in early January 2003. The airline has also ended service between Goose Bay and St. John's, Goose Bay and Deer Lake, Deer Lake and St. John's, Deer Lake and Wabush — no more.

Today, my community is in peril, but we are not alone. Consider, for instance, that in the wake of September 11 WestJet cancelled 14 flight offerings and pulled out of one community altogether. By last Christmas, Air Canada had already cut capacity by more than 20 per cent, and Air Canada Jazz, formerly known as Air Nova, cut capacity by 26 per cent over that same period.

Make no mistake about it; there is growing evidence to suggest that the impact of declining air service to my province is already evident. For instance, in the latest tourism sector update, while the province's Minister of Tourism, Culture and Recreation, Minister Julie Bettney, noted largely positive indicators of growth in the province's industry, she could not ignore the damaging air travel numbers. Fewer people are using our airports. In fact, air passenger movements are down 7 per cent in my province. Tourism is a \$700-million industry in my province, and its success depends largely on transportation links within the province and to mainland Canada.

Clearly, the air service situation is not unique to Newfoundland and Labrador. Indeed, evidence of Canadian frustration and the general move away from air travel began appearing before the introduction of the Air Travellers Security Tax. For example, the Canadian Tourism Commission's latest statistics for the year 2001 show an 11 per cent drop in domestic travel. The data also indicates that the number of Canadian tourists to the United States and overseas destinations were down more than 8 per cent and 10 per cent respectively in March 2002.

International travel to Canada is also significantly down. According to numbers released by Canada Tourism this month, international travel survey numbers recorded in March were the lowest recorded over the past five years. So far, for 2003, international overnight travel is down almost 6 per cent over 2002. Tourist traffic from Europe has dropped 12.8 per cent, while travel from the Asia-Pacific region has dropped almost 8 per cent.

Yes, some people may say that the cause is SARS or mad cow disease, but there are more problems than that. Clearly, an unfair burden has been placed on all Canadians and all those industries associated with air travel in Canada. It is not just the Air Travellers Security Tax; it is all the government-imposed charges and the whole fee structure.

Cliff Mackay, President and CEO of the Air Transport Association of Canada said that "government is taking the cash, passengers are paying the bills and the airlines are left holding the bag." He added, "Canada's airlines are taking the blame for higher ticket prices, but all of these extra fees are doing little to benefit the air sector or our passengers."

In its recent report, ATAC observed that Ottawa took \$308 million out of the aviation industry in the 2001-02 fiscal year. They maintained that of that amount only \$77 million went back into aviation. Interestingly, they note that while government took money away from the troubled aviation sector, it handed \$310 million to VIA Rail to subsidize rail services to Canadian communities. Of course, I do not need to remind honourable senators that rail service does not extend from coast to coast to coast. Indeed, not all provinces are afforded the luxury of rail service — mine especially.

It is obvious to everyone, with the exception of the government it seems, that these are critical concerns that need to be addressed. Now we ask the question, why is that? After all, these are issues with grave implications for all Canadians, their communities, their industries and their economies. Despite all of this, nothing has been done to alleviate the largely government-imposed hardships.

I suggest a necessary first step is to begin a legitimate review and re-evaluation of the air sector, paying particular attention to the burdensome fee structure. There are a number of important factors that I believe should figure prominently in this discussion, and I would like to briefly highlight some of the main points that ought to be considered.

Our airports are charged what ATAC calls "excessively high rents" by the federal government. Last year, the federal government raised nearly \$250 million from airport rent charges.

Second, airport improvement fees charged to passengers at the country's eight largest airports alone raked in over \$225 million last year.

Third, aircraft insurers have increased hull insurance by an average of 300 per cent. Fourth, the federal excise tax on aviation fuel accounts for an estimated \$70 million to \$90 million each year.

• (1240)

Air carriers are facing double-digit increases in landing and terminal fees at most airports. Government-imposed costs on airlines are based on operations, not results. According to ATAC, whereas most industries are taxed after their business results are known, the airline industry is heavily taxed on its inputs while consumers are increasingly charged directly.

A comparison of federal government operating, maintenance and capital expenditures on transportation in the fiscal years 1996-97 to 2001-02 reveals that support to airports has plummeted from \$396 million to only \$77 million.

Honourable senators, the Canada Transportation Act of 1996 recognizes transportation as a key to regional economic development. It stresses that the commercial viability of transportation links should be balanced with regional economic development objectives so that the potential economic strengths of each region may be realized. This is crucial.

Today, communities and regions across the country are witnessing what happens when this balance is definitely not respected. I humbly suggest to you, honourable senators, that air transport is not meant to be a privilege in this country; it is a right. On this front, we are failing Canadians terribly.

The Hon. the Speaker: With Senator Cochrane's speech, the debate on this inquiry is concluded.

[Translation]

LEGAL AND CONSTITUTIONAL AFFAIRS

MOTION TO AUTHORIZE COMMITTEE TO STUDY LEGAL AID—ORDER STANDS

On the Order:

Resuming debate on the motion, as modified, of the Honourable Senator Callbeck, seconded by the Honourable Senator Bacon:

That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to study the status of Legal Aid in Canada and the difficulties experienced by many low-income Canadians in acquiring adequate legal aid for both criminal and civil matters; and

That the Committee report no later than December 31, 2003. —(Honourable Senator Andreychuk).

Hon. Maria Chaput: Honourable senators, I would like to make my contribution to the Senate, so I will move that the debate stand in my name until the next sitting and depending on the amount of time I have left to continue.

On motion of Senator Chaput, debate adjourned.

ADJOURNMENT

Leave having been given to return to Government Notices of Motions:

Hon. Fernand Robichaud (Deputy Leader of the Governemnt): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Monday, June 6, 2003, at 6:01 p.m.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Monday, June 16, 2003, at 6:01 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(2nd Session, 37th Parliament)

Friday, June 13, 2003

GOVERNMENT BILLS
(SENATE)

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-2	An Act to implement an agreement, conventions and protocols concluded between Canada and Kuwait, Mongolia, the United Arab Emirates, Moldova, Norway, Belgium and Italy for the avoidance of double taxation and the prevention of fiscal evasion and to amend the enacted text of three tax treaties.	02/10/02	02/10/23	Banking, Trade and Commerce	02/10/24	0	02/10/30	02/12/12	24/02
S-13	An Act to amend the Statistics Act	03/02/05	03/02/11	Social Affairs, Science and Technology	03/04/29	0	03/05/27		

GOVERNMENT BILLS
(HOUSE OF COMMONS)

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-2	An Act to establish a process for assessing the environmental and socio-economic effects of certain activities in Yukon	03/03/19	03/04/03	Energy, the Environment and Natural Resources	03/05/01	0	03/05/06	03/05/13	7/03
C-3	An Act to amend the Canada Pension Plan and the Canada Pension Plan Investment Board Act	03/02/26	03/03/25	Banking, Trade and Commerce	03/03/27	0	03/04/01	03/04/03	5/03
C-4	An Act to amend the Nuclear Safety and Control Act	02/12/10	02/12/12	Energy, the Environment and Natural Resources	03/02/06	0	03/02/12	03/02/13	1/03
C-5	An Act respecting the protection of wildlife species at risk in Canada	02/10/10	02/10/22	Energy, the Environment and Natural Resources	02/12/04	0	02/12/12	02/12/12	29/02
C-6	An Act to establish the Canadian Centre for the Independent Resolution of First Nations Specific Claims to provide for the filing, negotiation and resolution of specific claims and to make related amendments to other Acts	03/03/19	03/04/02	Aboriginal Peoples	03/06/12	5			
C-8	An Act to protect human health and safety and the environment by regulating products used for the control of pests	02/10/10	02/10/23	Social Affairs, Science and Technology	02/12/10	0	02/12/12	02/12/12	28/02
C-9	An Act to amend the Canadian Environmental Assessment Act	03/05/06	03/05/13	Energy, the Environment and Natural Resources	03/06/04	0	03/06/05	03/06/11	9/03

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-10	An Act to amend the Criminal Code (cruelty to animals and firearms) and the Firearms Act	02/10/10	02/11/20	Legal and Constitutional Affairs	02/11/28	Divided			
						Message from Commons concurring with division 03/05/07			
C-10A	An Act to amend the Criminal Code (firearms) and the Firearms Act	-	-	Legal and Constitutional Affairs	02/11/28	0	02/12/03	03/05/13	8/03
C-10B	An Act to amend the Criminal Code (cruelty to animals)	-	-	Legal and Constitutional Affairs	03/05/15	5	03/05/29		
						Message from Commons- agree with 2 amendments, disagree with 2, and amend 1 03/06/09 Referred to committee 03/06/11 Reported 03/06/12			
C-11	An Act to amend the Copyright Act	02/10/10	02/10/30	Social Affairs, Science and Technology	02/12/05	0	02/12/09	02/12/12	26/02
C-12	An Act to promote physical activity and sport	02/10/10	02/10/23	Social Affairs, Science and Technology	02/11/21	0 + 1 at 3 rd 02/12/04 2 at 3 rd 03/02/04	03/02/04	03/03/19	2/03
C-14	An Act providing for controls on the export, import or transit across Canada of rough diamonds and for a certification scheme for their export in order to meet Canada's obligations under the Kimberley Process	02/11/19	02/11/26	Energy, the Environment and Natural Resources	02/12/04	0	02/12/05	02/12/12	25/02
C-15	An Act to amend the Lobbyists Registration Act	03/03/19	03/04/03	Rules, Procedures and the Rights of Parliament	03/05/14	1	03/05/28	03/06/11	10/03
						Message from Commons- agree with amendment 03/06/09			
C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2003	02/12/05	02/12/10	-	-	-	02/12/11	02/12/12	27/02
C-24	An Act to amend the Canada Elections Act and the Income Tax Act (political financing)	03/06/11							

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-25	An Act to modernize employment and labour relations in the public service and to amend the Financial Administration Act and the Canadian Centre for Management Development Act and to make consequential amendments to other Acts	03/06/03	03/06/13	National Finance					
C-28	An Act to implement certain provisions of the budget tabled in Parliament on February 18, 2003	03/05/27	03/06/04	National Finance	03/06/12	0			
C-29	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2003	03/03/25	03/03/26	—	—	—	03/03/27	03/03/27	3/03
C-30	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2004	03/03/25	03/03/26	—	—	—	03/03/27	03/03/27	4/03
C-31	An Act to amend the Pension Act and the Royal Canadian Mounted Police Superannuation Act	03/06/03	03/06/11	National Security and Defence					
C-35	An Act to amend the National Defence Act (remuneration of military judges)	03/06/13							
C-39	An Act to amend the Members of Parliament Retiring Allowances Act and the Parliament of Canada Act	03/06/03	03/06/11	Legal and Constitutional Affairs					
C-42	An Act respecting the protection of the Antarctic Environment	03/06/13							
C-44	An Act to compensate military members injured during service	03/06/13	03/06/13	National Security and Defence					
C-47	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2004	03/06/13							

COMMONS PUBLIC BILLS

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-227	An Act respecting a national day of remembrance of the Battle of Vimy Ridge	03/02/25	03/03/26	National Security and Defence	03/04/02	0	03/04/03	03/04/03	6/03
C-249	An Act to amend the Competition Act	03/05/13							
C-300	An Act to change the names of certain electoral districts	02/11/19	03/06/03	Legal and Constitutional Affairs					
C-411	An Act to establish Merchant Navy Veterans Day	03/06/12							

SENATE PUBLIC BILLS

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-3	An Act to amend the National Anthem Act to include all Canadians (Sen. Poy)	02/10/02	03/06/10	Social Affairs, Science and Technology					
S-4	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	02/10/02							
S-5	An Act respecting a National Acadian Day (Sen. Comeau)	02/10/02	02/10/08	Legal and Constitutional Affairs	03/06/03	2	03/06/05		
S-6	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	02/10/03							
S-7	An Act to protect heritage lighthouses (Sen. Forrestall)	02/10/08	03/02/25	Social Affairs, Science and Technology					
S-8	An Act to amend the Broadcasting Act (Sen. Kinsella)	02/10/09	02/10/24	Transport and Communications	03/03/20	0	03/04/02		
S-9	An Act to honour Louis Riel and the Metis People (Sen. Chalfoux)	02/10/23	03/05/06	Legal and Constitutional Affairs					
S-10	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	02/10/31	03/02/25	Energy, the Environment and Natural Resources					
S-11	An Act to amend the Official Languages Act (promotion of English and French) (Sen. Gauthier)	02/12/10	03/05/07	Official Languages					
S-12	An Act to repeal legislation that has not been brought into force within ten years of receiving royal assent (Sen. Banks)	02/12/11	03/02/27	Legal and Constitutional Affairs					
S-14	An Act to amend the National Anthem Act to reflect the linguistic duality of Canada (Sen. Kinsella)	03/02/11							
S-15	An Act to remove certain doubts regarding the meaning of marriage (Sen. Cools)	03/02/13	Dropped from Order Paper pursuant to Rule 27(3) 03/06/05						
S-16	An Act to amend the Constitution Act, 1867 and the Parliament of Canada Act (Speakership of the Senate) (Sen. Oliver)	03/03/18							
S-17	An Act respecting the Canadian International Development Agency, to provide in particular for its continuation, governance, administration and accountability (Sen. Bolduc)	03/03/25							

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-18	An Act to amend the Criminal Code (lottery schemes) (Sen. Lapointe)	03/04/02							
S-20	An Act to amend the Copyright Act (Sen. Day)	03/05/15							

PRIVATE BILLS

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-19	An Act respecting Scouts Canada (Sen. Di Nino)	03/05/14	03/06/09	Legal and Constitutional Affairs					
S-21	An Act to amalgamate the Canadian Association of Insurance and Financial Advisors and The Canadian Association of Financial Planners under the name The Financial Advisors Association of Canada (Sen. Kirby)	03/06/03	03/06/09	Banking, Trade and Commerce					

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OFFICIAL REPORT
(HANSARD)

Monday, June 16, 2003

—
THE HONOURABLE DAN HAYS
SPEAKER

AUG 18 2003

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(Daily index of proceedings appears at back of this issue).

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THE SENATE

Monday, June 16, 2003

The Senate met at 6:01 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

QUESTION OF PRIVILEGE

NOTICE

Hon. Lowell Murray: Honourable senators, I believe a copy of a written notice of a question of privilege I gave to the clerk earlier today has been circulated. I rise now, in conformity with the rule to give oral notice, that I shall be raising that question of privilege at the appropriate time.

INSTALLATION OF BISHOP RAYMOND LAHEY AS BISHOP OF DIOCESE OF ANTIGONISH AND CHANCELLOR OF ST. FRANCIS XAVIER UNIVERSITY

Hon. B. Alasdair Graham: Honourable senators, St. Ninian's Cathedral in Antigonish is a venerated, beautiful old church, which has a special place in the hearts and minds of generations of those fortunate enough to have savoured its special magic.

When Bishop Raymond Lahey, a native Newfoundlander, was installed last Thursday as the eighth Roman Catholic Bishop of the Diocese of Antigonish and Chancellor of St. Francis Xavier University, St. Ninian's once again became home to an ancient ceremony of enormous solemnity and glorious colour. All the while, this celebratory speech was accompanied by a remarkable display of music and song: Director James McPherson's incomparable cathedral choir, golden trumpets, and the traditional haunting sounds of bagpipes and fiddles.

It would be indeed interesting to know whether Bishop Colin McKinnon, who founded St. FX in Arichat, Cape Breton, in 1853, two years before it was moved to Antigonish in 1855, could have foreseen such a remarkable future rise from the seeds of his unwavering determination. It is interesting to note that, at the time, Nova Scotia had won responsible government and the legendary Joseph Howe was premier of the province.

As this great university celebrates its one-hundred fiftieth anniversary, there is much to celebrate: a new bishop and chancellor, a new commemorative stamp issued by Canada Post — which I had the privilege to help unveil on April 4 of this year — and, according to *Maclean's* magazine, top-ranking as the number one university in all of Canada.

St. FX has been home to extraordinary leaders who believe in the power of individuals, no matter how poor, no matter how susceptible to the vagaries of a resource-based economy, to become masters in their own house.

It was at this place that Monsignor Coady began to spread his message about liberation and empowerment. It was in this place

that the Coady International Institute established a training centre for adult education. It is to this place that over 4,000 community leaders from 120 countries have come to learn about education, which brings hope to little people across the planet; and it is from this place, in this past year, that students have gone to places like Botswana and Rwanda in response to the HIV/AIDS crisis.

The new Bishop Lahey inherits a proud tradition and he himself brings another one to Antigonish.

As the congregation, including close to 50 bishops from across Canada, left St. Ninian's under ancient trees as venerable as the church itself, the choir, the trumpets, the bagpipes and the fiddles joined as one in a stirring and very emotional rendition of the *Ode to Newfoundland* — a fitting tribute to the new shepherd who will watch over his flock and diocese, hopefully for many years to come.

RACIAL PROFILING

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, the Centre for Research Action on Race Relations has solicited the help of Parliament to bring forward legislation to deal with racial profiling in Canada.

Canada has a duty to fulfil domestic and international obligations to protect human rights contained in the Universal Declaration of Human Rights and the Charter of Rights and Freedoms. Article 9 of both of these documents states that "No one shall be subjected to arbitrary arrest, detention or exile," and both protect against discrimination based on race. Racial profiling is a practice that falls under these headings. This is of particular importance in light of recent accounts of racial profiling occurring at the Canada-U.S. border following the events of September 11 and allegations that law enforcement officers are engaging in discriminatory practices of racial profiling in their investigations.

Does racial profiling subordinate civil rights to the right of society to be protected, or is it an effective tool that is based on statistical foundations? It is clear that arbitrary stops, searches and detention based entirely on race, ethnicity or national origin go against the fundamental principles of our Charter.

Samantha Payne, an intern from the University of Indiana, asks: Is profiling necessarily discriminatory when it is based on both experience and statistical evidence used in the prevention of crime and terrorism? Some believe that the statistical evidence utilized is unreliable. Overrepresentation of certain racial groups in the justice system might occur simply because they may be targeted more by law enforcement officials. There is no unequivocal evidence to support the theory that people of certain minority groups are more likely to commit crimes than others. Any evidence to suggest this dissipates under the light of potential discriminatory targeting. It becomes a circular and self-fulfilling argument.

Racial profiling encroaches upon basic human rights that Canada has worked hard to protect. Canada has demonstrated its willingness to take action to eliminate all forms of discrimination at home and abroad and continues to be a leader in the field of human rights. Our country is party to over 30 international human rights instruments.

• (1810)

In August 2001, Canada was a signatory to the Report of the World Conference against Racism, which urges member states:

...to design, implement and enforce effective measures to eliminate the phenomenon popularly known as "racial profiling" and comprising the practice of police and other law enforcement officers relying, to any degree, on race, colour, descent, or national or ethnic origin as the basis for subjecting persons to investigatory activities or for determining whether an individual is engaged in criminal activity;

Honourable senators, if all are equal before the law and entitled to equal protection, it is important that this practice be abandoned to ensure that these basic human rights are not infringed. When will this government bring forward measures to eliminate racial profiling?

FUTURE OF FRENCH LANGUAGE SCHOOLS

CANADIAN TEACHERS' FEDERATION REPORT ON IMPORTANCE OF EARLY CHILDHOOD CARE AND EDUCATION

Hon. Jean-Robert Gauthier: Honourable senators, a report released last week by the Canadian Teachers' Federation, CTF, revealed that unless federal, provincial and territorial governments put in place an adequate French-language early childhood care and education system, the future of French-language schools is in jeopardy.

The Canadian Teachers' Federation speaks for 240,000 teachers, of whom 10,000 work in francophone minority settings outside Quebec. This report, entitled "Early Childhood: Gateway to French-language Schools," presents the findings of an 18-month research project that the federation conducted with the Centre for Interdisciplinary Research on Citizenship and Minorities. The report shows, with respect to early childhood services in French, in Canada, an absence of policies, a myriad of disparities and a definite frailty in funding arrangements. The situation is difficult because children do not receive the same attention in every province and territory. The President of the Canadian Teachers' Federation, Doug Willard, explained:

Every day, teachers in francophone minority communities deal with children whose ability to learn in French is limited by their linguistic and cultural experience prior to starting school. This situation is compounded by the fact that many parents who are entitled to send their children to French-language schools fail to do so at the beginning or at a later stage of their children's schooling.

The report spells out a national vision that describes an early childhood care and education services model best suited to ensure the full integration of francophones into French-language schools. The report also calls for specific measures to be taken at the federal, provincial and territorial levels, including: establishment of a national policy respecting early childhood in minority settings; broadening the Protocol for Agreements for Minority-Language Education and Second-Language Instruction; allocation to minority communities of an equitable share of existing programs; and creation of a program for the development of francophone community skills in the area of early childhood.

The report dovetails with the federal government's action plan for official languages released last March entitled, "The Next Act: New Momentum for Canada's Linguistic Duality." Mr. Willard said:

If we are to avoid the assimilation of entire francophone communities, we must take measures that will impact early in a child's life.

Personally, honourable senators, I believe that the national vision in this report is a major step in the right direction in that it points to the best guarantees of success of early childhood services as the gateway to French-language schools.

[Translation]

ROUTINE PROCEEDINGS

TREASURY BOARD

GOVERNMENT ON-LINE: 2003—REPORT TABLED

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table the report of the President of Treasury Board entitled, "Government On-Line: 2003."

[English]

STUDY ON MATTERS RELATING TO STRADDLING STOCKS AND TO FISH HABITAT

REPORT OF FISHERIES AND OCEANS COMMITTEE TABLED

Hon. Joan Cook: Honourable senators, I have the honour to table the fifth report of the Standing Senate Committee on Fisheries and Oceans, which deals with the straddling fish stocks in the Northwest Atlantic.

On motion of Senator Cook, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

**PENSION ACT
ROYAL CANADIAN MOUNTED POLICE
SUPERANNUATION ACT**

BILL TO AMEND—REPORT OF COMMITTEE

Hon. J. Michael Forrestall, Deputy Chair of the Standing Senate Committee on National Security and Defence, presented the following report:

Monday, June 16, 2003

The Standing Senate Committee on National Security and Defence has the honour to present its

ELEVENTH REPORT

Your Committee, to which was referred Bill C-31, *An Act to amend the Pension Act and the Royal Canadian Mounted Police Superannuation Act*, has, in obedience to the Order of Reference of Wednesday, June 11, 2003, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

J. MICHAEL FORRESTALL
Deputy Chair

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Forrestall, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

INJURED MILITARY MEMBERS COMPENSATION BILL

REPORT OF COMMITTEE PRESENTED

Hon. J. Michael Forrestall, Deputy Chair of the Standing Senate Committee on National Security and Defence, presented the following report:

Monday, June 16, 2003

The Standing Senate Committee on National Security and Defence has the honour to present its

TWELFTH REPORT

Your Committee, to which was referred Bill C-44, *An Act to compensate military members injured during service*, has, in obedience to the Order of Reference of Friday, June 13, 2003, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

J. MICHAEL FORRESTALL
Deputy Chair

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Forrestall, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

[Translation]

STATUTORY INSTRUMENTS ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-205, to amend the Statutory Instruments Act (disallowance procedure for statutory instruments).

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Robichaud, bill placed on the Orders of the Day for second reading two days hence.

• (1820)

HUMAN RIGHTS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE
TO MEET DURING ADJOURNMENT OF THE SENATE

Hon. Shirley Maheu: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That pursuant to rule 95(3)(a), the Standing Senate Committee on Human Rights be authorized to sit on Mondays, beginning September 15, 2003, on its study of the examination of key legal issues affecting the subject of on-reserve matrimonial real property on the breakdown of a marriage or common law relationship, even though the Senate may then stand adjourned.

[English]

**ENERGY, THE ENVIRONMENT
AND NATURAL RESOURCES**

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO
SIT DURING ADJOURNMENT OF THE SENATE

Hon. Tommy Banks: Honourable senators, I give notice that at the next sitting of the Senate, I will move:

That the Standing Senate Committee on Energy, the Environment and Natural Resources be empowered, in accordance with rule 95(3)(a), to sit during the traditional summer adjournment of 2003, even though the Senate may then be adjourned for a period exceeding one week, until such time as the Senate is ordered to return.

[Translation]

QUESTION PERIOD

JUSTICE

APPOINTMENT OF OMBUDSMAN TO REVIEW LEGAL ERRORS

Hon. Pierre Claude Nolin: Honourable senators, my question is for the Leader of the Government in the Senate. On June 4, 2002, the Parliament of Canada passed Bill C-15A, which included a major reform to the highly controversial system for reviewing miscarriages of justice.

On March 19, 2002, in order to improve the efficacy, credibility and transparency of this procedure, and particularly its independence, the Senate tabled and passed an amendment moved by Senator Joyal, stipulating that the Minister of Justice might delegate, in writing, to an independent expert, with a background in the law, certain of his powers in connection with the review of miscarriages of justice.

According to the *The Globe and Mail*, the Minister of Justice has not properly grasped the importance of the amendment passed by the Senate, or has quite simply decided deliberately to ignore it, because here we are, a year after Bill C-15A was enacted, with no one yet appointed.

In expressing his indignation at the Minister of Justice's patent inertia to fulfill his promises in this connection, lawyer Melvyn Green of the Association in Defence of the Wrongly Convicted was quoted as follows, in a recent article in *The Globe and Mail*:

[English]

The review mechanism remains deeply flawed, but the right outsider could make a real difference to the fate of wrongly convicted Canadians.

[Translation]

What I am asking, on behalf of those in Canada who have been unjustly accused, as well as all those who support them in the long and difficult process to get their verdicts reviewed, is how the Leader of the Government in the Senate can explain the fact that the Minister of Justice has not yet respected the terms of the amendment adopted by the Senate and appointed an independent expert responsible for ensuring that the new procedure for the review of miscarriages of justice is operating properly.

How can it be that, a year later, the Minister of Justice has not yet been able to find a qualified candidate to do this?

Ought we to have submitted a list of possible candidates to the minister when adopting the amendment?

[English]

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for his question. I do not know why the Honourable Minister of Justice has not made the appointment, as he has indicated it is part of the statute. I will make inquiries and report back.

CANADA-UNITED STATES RELATIONS

HUMAN SMUGGLING

Hon. A. Raynell Andreychuk: Honourable senators, my question is for the Leader of the Government in the Senate. The RCMP has warned that Canada may soon see a rise in the incidence of people smuggling. Last week, the U.S. State Department criticized Canada for not doing enough to fight against a similar but arguably more serious problem — human trafficking. The report stated that the Government of Canada does not fully comply with the minimum standards for the elimination of trafficking. They categorized current federal efforts to prosecute traffickers as "uneven."

My question for the Leader of the Government in the Senate is this: What is the federal government doing to address this particular problem, or this perception of a problem, from the American State Department?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, we would encourage our friends to the south to sign the same treaty we have with respect to this process.

Senator Andreychuk: Honourable senators, are we admitting that we do have a problem, or are we simply saying that the United States has erred, that they are wrong and that it is a perception problem? In other words, Canadians want to know whether there really is a problem with human trafficking from our side, irrespective of what treaties or conventions we have signed. Is the problem real, in the eyes of the government?

Senator Carstairs: To deny that there is a problem, not only in this country but internationally, with human smuggling would be to live with one's head in the sand. There is a problem, both in this country and internationally, with human smuggling. That is exactly why we signed the treaty. That is exactly why we are putting resources and policies in place to do whatever we can to counteract it.

Senator Andreychuk: Part of the problem appears to be the characterization that the U.S. State Department has made of the problem. It is noted that the U.S. State Department rated Canada's efforts in human trafficking as being in the same category as countries with longstanding records of grave human rights violations, such as Rwanda and the Democratic Republic of the Congo. Colombia, a country that is a major source of women trafficked into prostitution and has a widespread problem with internal trafficking, was somehow ranked in a higher tier than Canada, alongside the U.K. and Spain.

Has the federal government been able to ascertain what criteria the U.S. State Department used in categorizing Canada's response to human trafficking?

Senator Carstairs: As the honourable senator is aware, the United States government establishes its own criteria. In this case, we have no hesitancy in saying that they are wrong in placing Canada where they have placed us. We have put the right system in place. We would encourage our neighbours to the south to do exactly the same thing.

Senator Andreychuk: What process is the Canadian government using to engage the United States to correct this categorization? In other words, are there some high level, Prime Minister-to-President discussions, as this is a very serious matter?

Senator Carstairs: To my knowledge, it has not reached that level, but it has certainly reached the level of the usual diplomatic processes that are used to inform our neighbour to the south of us that, quite frankly, they are wrong.

HUMAN RESOURCES DEVELOPMENT

BOVINE SPONGIFORM ENCEPHALOPATHY— AID TO BEEF INDUSTRY WORKERS

Hon. Leonard J. Gustafson: Honourable senators, this government's handling of the economic fall-out from the mad cow scare has failed to inspire confidence with the Canadians hurt by this problem. For instance, the government was asked to waive the two-week Employment Insurance waiting period for those hurt by the mad cow scare. Instead, in response, it is telling those people to get into retraining and work-sharing programs.

Let us take a real-life example and show how far out of touch this government is. At Moose Jaw, Saskatchewan, a company by the name of XL Beef recently laid off 160 employees and completely closed the plant because of the mad cow scare. With the XL Beef plant completely closed, could the Leader of the Government in the Senate please inform us how on earth an XL Beef plant employee can partake in a work-sharing program? Clearly, in many cases, there is no work to share.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, it is deeply regrettable that the company took that position. For example, the company located in Brooks, Alberta, took an entirely different position and, instead of laying off 900 workers, entered into a job work-share program, and those 900 people still have work. Unfortunately, the people in Moose Jaw have been, in my view, let down somewhat by their employer. Having said that, they now qualify for EI. They have to serve the EI two-week waiting period, as do all Canadians, with the one exception in the history of EI when the people themselves were quarantined and could not go out on the streets of their cities to look for employment.

• (1830)

Senator Gustafson: The sad truth is that if Moose Jaw had not shut down, there would not be work in other areas. The beef has to go somewhere. That is a weak position.

The federal government's idea of free-interest loans to help those hurt by the mad cow scare has been universally condemned.

I received a letter today from Ontario beef producers. Thousands of them are having serious problems because of not being able to move their cattle.

The government must be aware that a loan is not an answer. After all, one cannot borrow one's self out of trouble. One just digs oneself deeper into debt. For instance, poor income support programs from the government have already forced Canada's farmers to incur an excess of \$15 billion in new debt between 1993 and 2000.

Why is the government asking the industry, which is already suffering through no fault of its own, to accept deeper debt?

Senator Carstairs: Honourable senators, we have to look at all possible solutions to this problem. No-interest loans payable over a period of 10 years has been one of the suggestions put on the table. It is a legitimate suggestion. Is it the only suggestion? The answer is no. As the honourable senator well knows, the Minister of Agriculture met with his provincial and territorial counterparts on Friday. He indicated at a public press conference held at the end of that meeting, that he would make a significant announcement sometime this week.

Hon. Gerry St. Germain: Honourable senators, the Leader of the Government in the Senate makes reference to the plant in Moose Jaw not having taken into consideration, work-sharing. How can my honourable friend be so critical of an organization unless she is totally familiar with the economic workings of the organization? Maybe the only way the plant can survive is by shutting down completely.

Many politicians are not great business people, but I operated businesses all my life, until I came to this place. Often, there is no recourse. Does the honourable leader have information whereby she can be that forceful and that critical of that organization?

Senator Carstairs: What I did, honourable senators, was point to other similarly stressed organizations that did reach out to help their workers in ways they could, some plants larger than the one in Moose Jaw, which might have made it easier, but some the same size as the Moose Jaw plant. Obviously, we are all under great stress with respect to BSE. I think that employers as well as employees should stretch the envelope.

Senator St. Germain: Honourable senators, I have been in touch with some of the people who are running auctions in British Columbia. There is just no income. There is no way they can operate part time. The Brooks plant may have enough of the domestic market to remain partially open, but I can tell the minister emphatically that I have been told by industry people whom I met with this weekend that there must be immediate assistance. As Senator Gustafson so adeptly pointed out, there is no sense going into a deeper debt hole.

Honourable senators, this is an honourable business. This is not like Groupaction out of Quebec, which never expects to pay anything. This is an honourable industry with honourable people, hard-working cowboys, abattoir workers and people across this industry who have a high degree of integrity. If they take a dollar from you on a loan, they expect to pay it back.

Would the minister be prepared to go back to the cabinet and explain the logic out there that seems to be going over the head of the government?

Senator Carstairs: With the greatest respect, honourable senators, some of the industry people themselves indicated that no-interest loans were the way to proceed. Obviously, that will not meet all the needs out there. That is why we expect that, later this week, there will be a further announcement indicating what will be done by the Government of Canada, in cooperation with the provinces and territories of this country, to help those involved in this industry to get over a very difficult time.

NATIONAL DEFENCE

WAR WITH IRAQ—INVOLVEMENT OF HERCULES AIRCRAFT CREWS

Hon. J. Michael Forrestall: Honourable senators, I have a question for my favourite minister. I have often wondered why we do not have several.

We learned in the past that Canadian naval ships searched suspected Iraqi ships in the Persian Gulf. We heard that our CP-140 Aurora maritime patrol aircraft provided intelligence to United States forces on Iraqi maritime movements. We know that Canadian Forces officers on exchange fought with British and American units, and now a U.S. general has written a report that reveals that Canada's three C-130 Hercules tactical transport aircraft took part in the U.S.-led war on Iraq. Did the Canadian Forces C-130 Hercules aircraft or any other Canadian Force units take part in the U.S.-led war in Iraq?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, it is my information that they did not. I quote Canadian Forces spokeswoman Major Lynn Chaloux:

That report is erroneous. We supported Enduring Freedom, the war on terrorism, not Iraqi Freedom, the war in Iraq.

Senator Forrestall: To bring this controversy to an end, would the minister undertake to seek from Minister McCallum an undertaking to bring forward, for tabling in this chamber, the pertinent extracts from the logs of those three Hercules aircraft so that there might be a public glimpse of just what the facts are?

Senator Carstairs: I do not have those extracts with me. I understand that the honourable senator is requesting me to place the question with the Minister of Defence. I will do that and share the information with him when it becomes available.

FOREIGN AFFAIRS

NORTHERN IRELAND—EFFORTS TO FACILITATE RETURN TO LOCAL GOVERNMENT

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): The honourable minister will recall that, a few months ago, I raised a question of what I consider to be a tremendous opportunity for

Canada to show leadership in one theatre of the world that we have not been focusing on with the same level of intent as in other parts. I am speaking of Northern Ireland.

Might the minister approach her colleague, the Minister of Foreign Affairs, as to whether Canada would host a dinner of the principal players in Northern Ireland, to see whether Canadian hospitality might provide the opportunity to break the log-jam that is currently in place in that theatre of the world?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I thank the honourable senator for the suggestion. I will make sure the Minister of Foreign Affairs is apprised of the honourable senator's request in this case, and I would add mine, which is that Alberta beef be on the menu.

[Translation]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table in the Senate three delayed answers. The first one is a response to questions raised in the Senate by the Honourable Senators Comeau and Adams on May 28, 2003, regarding Nunavut — northern shrimp fishing; the second one is a response to a question raised in the Senate by the Honourable Senator Robertson on May 15, 2003, regarding the plight of the homeless — development of a central database; and the third one is a response to a question raised in the Senate by the Honourable Senator Keon on June 10, 2003, regarding West Nile Virus.

FISHERIES AND OCEANS

NUNAVUT—ACCESS TO SHRIMP FISHERY

(Response to questions raised by Hon. Gerald J. Comeau and Hon. Willie Adams on May 28, 2003.)

The Department of Fisheries and Oceans has acted in a manner that is fully consistent with all obligations and commitments to the territory of Nunavut. In responding to advice from the Independent Panel on Access Criteria (IPAC), the Minister accepted the panel recommendation that no additional access would be granted to non-Nunavut interests in waters adjacent to Nunavut until the territory has achieved access to a major share of its adjacent fishery resource.

The IPAC report was commissioned to look at the issue of harvest access in growing fisheries. The report clearly defines access as the opportunity to harvest or use the fisheries resource generally permitted by licences or leases issued by DFO. The report distinguishes this from the allocation of harvest opportunity, which is defined as the amount of allowable catch that is distributed or assigned by the Minister to those permitted to harvest the resource.

This year's decisions in the northern shrimp fishery were fully consistent with the recommendations made in the IPAC report. DFO continues to make concerted efforts to allow Nunavut access to the major share of the resource allocations in adjacent waters as demonstrated by the granting of 51 per cent of the allocation increases in shrimp fishing area 1 to Nunavut in 2003.

As indicated above, the Department has acted in a manner that is fully consistent with all obligations and commitments to Nunavut. Nunavut received the major share, (51 per cent) of the increase of the northern shrimp allocation in adjacent waters this year. This allocation is above that which would have been received under the historical sharing arrangements (8.8 per cent) or 187t. Nunavut also shared in allocations to the offshore licence holders and the scientific quota in areas not adjacent (518t), for a total increase in allocation of 1,601t.

The Department will continue to manage and allocate fishery resources consistent with the recommendations of the IPAC report.

Commitment to Nunavut in Article 15.3.7 of the Nunavut Land Claims Agreement.

DFO has satisfied the requirements of section 15.3.7 of the Nunavut Land Claims agreement, which requires that special consideration be given to the importance of adjacency and economic dependence of communities in the Nunavut Settlement Area.

In 2003 Nunavut requested access to the following:

- 100 per cent of the new 2003 allocation of 2,127t.
- 100 per cent of the 2002 allocation of 2,690t which had already been allocated to the offshore licence holders, effective 2001.
- A further 1,850t allocation transferred from the remaining 9,350t allocation in SFA 1 that is currently held by the offshore licence holders.

Each of these requests was given special consideration in line with the Land Claims Agreement. As stated in the Ministerial response to IPAC, fulfillment of recommendation #6 under IPAC will not be achieved by confiscation of harvest shares already allocated to other participants in this fishery.

HUMAN RESOURCES DEVELOPMENT

PLIGHT OF HOMELESS— DEVELOPMENT OF CENTRAL DATA BASE

(Response to a question raised by the Hon. Brenda M. Robertson on May 15, 2003.)

All projects approved in a community under the Supporting Communities Partnership Initiative (SCPI) are required to address one or more of the priorities identified in

their community plan. Each community plan identifies the local needs and challenges to address homelessness and this process involved community stakeholders, including homeless people and higher-risk groups such as youth, women and Aboriginal people.

An assessment can be made by the National Secretariat on Homelessness (NSH) as to how many projects correspond to any given community priority. No project will be approved unless it directly addresses a community plan priority and the Terms and Conditions of the SCPI.

The SCPI has five specific objectives:

1. To lessen the hardship of people who are homeless by increasing services, for example by providing additional shelter space or more alternative housing for longer-term shelter residents;
2. To promote a coordinated series of programs and initiatives aimed at reducing homelessness;
3. To strengthen the capacity of communities by bringing local service providers together to develop plans that address individual needs in a seamless and coordinated fashion;
4. To promote broad-based partnerships among all stakeholders (private, non-profit, volunteer and labour organizations, the general public and all levels of government) to address homelessness at a community level; and
5. To develop a base of information and knowledge about homelessness, and share it among all concerned parties and with the general public.

This information is captured in a database maintained by the NSH. The NSH has undertaken a number of community investment analyses, which can be made available upon request.

We are pleased to announce the SCPI was selected as a Best Practice in the UN-Habitat 2002 Dubai International Awards for Best Practices. UN-Habitat Best Practices, such as the SCPI, are initiatives which have made outstanding contributions to improving the quality of life in cities and communities around the world. The original call for Best Practices was launched in 1995 during preparations for the Second United Nations Conference on Human Settlements, as a means of identifying what works in improving living conditions on a sustainable basis. Since 1996, the Dubai International Awards have been held biannually and have received more than 2,000 submissions from over 90 countries. For the 2002 Awards, an independent committee was responsible for reviewing the 544 submissions and classifying them as either Best Practices, Good Practices, Promising Practices or Non-Qualifiers. They identified four North American submissions as Best Practices, including the Government of Canada's SCPI.

Since the inception of the National Homelessness Initiative, the NSH has been developing HIFIS. The vision of the HIFIS Initiative goes beyond the development and deployment of a computer based shelter tool. In partnership with communities, it encompasses the broader goal of establishing a source of comparable data on the characteristics of homeless people across Canada. While HIFIS does not provide a count of homeless people, it can be used to collect a range of information, including demographic information on shelter clients, the immediate reason for using a service, the contributing factors to a person or family being homeless and the client's status upon discharge.

As all Canadians can understand, maintaining the privacy of individuals is of the utmost importance. That is why from the outset of its development by Canada Mortgage and Housing Corporation, HIFIS has been guided by the principles of the Privacy Act (Act 66). As well, privacy concerns were reviewed by experts and stakeholders in Canadian privacy law. Since NSH took over HIFIS, they have continued to respect and address privacy concerns.

HIFIS has also responded to privacy concerns about the personal information held in shelters' operational databases by developing a second 'export database' that is used to send non-identifiable data to the NSH. The 'export database' contains information that is derived from the operational database, but without personal information such as names or social insurance numbers. Once enough data is collected in the 'export database,' this will enable the NSH to establish a source of comparative data on the characteristics and trends within the homeless population, such as the number, gender, average age and average length of stay of Canadian shelter users. At the same time, the privacy of homeless individuals and families will be safeguarded because no identifiable personal information is included in the 'export database.'

HIFIS helps shelters manage their data as well as allowing across-the-board data exchange resulting in national, provincial, municipal and agency reports that will provide useful information for enhanced decision-making capacity. To maintain the principles of HIFIS, a national data sharing protocol that establishes parameters defining when data is transmitted, what data is shared, who receives and owns the data and how the data is protected, will serve as a guideline for this national data exchange system. This protocol will enable frontline service providers and municipal and provincial governments to form a formal data exchange community. This protocol, which sets the rules for sharing data and addresses privacy concerns, can be used as a model for cities and communities that want to sign agreements. Developing this system requires constant communication with shelter users in order to suit the needs of users, ensure privacy and enable data sharing. The City of Ottawa is close to signing a data sharing agreement using this protocol and it is expected that other communities will be entering into similar agreements in the near future. An

important part of the second phase of the HIFIS Initiative is to increase capacity to implement these data sharing agreements with cities and communities.

As for comments made about HIFIS containing too many bugs and limitations, the majority of these bugs and limitations were present in the earlier prototype version of HIFIS, called HIFIS 1.3. The new version, HIFIS 2.0, has corrected most of the software problems identified by stakeholders. As well, the new version addressed a number of the limitations that were brought to the attention of the HIFIS team. Subsequent versions of HIFIS will continue to respond to stakeholder suggestions and changing needs.

The expectations of the [pilot] projects depend on the objective established for each individual project. These would be aligned with the five overarching objectives of the SCPI, as previously outlined.

In three years, through community partnerships, the SCPI has succeeded beyond expectations.

- Under the SCPI, 61 communities across the country have developed community plans to address the specific issues facing those who are homeless or at risk of becoming homeless in their communities.
- More than 7,000 new beds have been created.
- Approximately 563 shelter facilities are receiving funding for building improvements or renovations.
- More than 331 support facilities, such as food banks and soup kitchens, are being set up or improved.
- In addition to the Government of Canada investment in this initiative, \$555.9M has been contributed by other partners.
- More specialized services have been developed to help youth and urban Aboriginal homeless persons, two of the fastest growing groups that are facing the challenges of homelessness. This includes facilities such as shelters serving homeless youth.
- Hundreds of partnerships have been forged across provinces and territories to help fight homelessness.

It should be noted that an evaluation of the National Homelessness Initiative (NHI) was carried out in 2002-2003. This evaluation aimed to meet Treasury Board's requirement to measure progress in implementing the NHI. The final report is expected to be released by June 30, 2003 and will be posted on the NSH's web site at www.homelessness.gc.ca. The evaluation methodology is based primarily on a set of 20 community case studies. In addition, information on all 61 communities was collected through the analysis of program data and documents, and interviews with many stakeholders.

All 61 communities are also required to complete a Community Plan Assessment to report on the progress of their investments and activities towards the achievement of their priorities and objectives as described in their community plan. These objectives and priorities supported the NHI's three strategic objectives which were:

- Facilitate community capacity by coordinating the Government of Canada efforts and enhancing the diversity of tools and resources;
- Foster effective partnerships and investments that contribute to addressing the immediate and multifaceted needs of the homeless and reducing homelessness in Canada; and
- Increase awareness and understanding of homelessness in Canada.

HEALTH

WEST NILE VIRUS—STOCKPILING OF BLOOD—SCREENING TEST—SUSPECTED CASE IN WALPOLE, ONTARIO—BLOOD DONATIONS IN REGION

(Response to question raised by Hon. Wilbert J. Keon on June 10, 2003.)

Stockpiling of Blood — Screening Test

Blood establishments do not intend to test these products before they are released. Blood establishments have been collecting, keeping and stockpiling products from February 2003 to May 2003, outside the mosquito season. This was initiated in order to secure sufficient supply to use should cases of human West Nile Virus appear prior to the implementation of screening of all donations for West Nile Virus. As a result no testing of these products was deemed necessary at the time.

Suspected Case in Walpole, Ontario — Blood Donations in Region

Health Canada has confirmed with the Canadian Blood Services that there were no blood clinics held in the area where the boy resided during this period.

• (1840)

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, under Government Business, I would like us first to address Item No. 2, Bill C-24, then Bill C-28, then move on to Item No. 2 under Presentation of Committee Reports, and then resume the proposed order on the Order Paper.

[English]

CANADA ELECTIONS ACT INCOME TAX ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Robichaud, P.C., seconded by the Honourable Senator Rompkey, P.C., for the second reading of Bill C-24, to amend the Canada Elections Act and the Income Tax Act (political financing).

Hon. W. David Angus: Honourable senators, I rise this evening in the most non-partisan spirit, which is the most I can muster in the circumstances, to speak on Bill C-24, which deals with the financing of parties, candidates and elections in Canada's political development system. The bill is entitled "An Act to amend the Canada Elections Act and the Income Tax Act."

At the outset, I wish to say that I and my colleagues on this side of the chamber do not support this bill in principle or in substance. We are, I believe, unequivocally opposed to this bill. As well, honourable senators, based on what I have read and heard in the print media and in the electronic media — and indeed, around the corridors of these Parliament buildings — it appears clear to me that a substantial number of members of Parliament, and senators who are not members of my party, are likewise opposed to the proposed legislation.

Not only is the governing Liberal Party of Jean Chrétien deeply divided on this bill, but its own incumbent president, Mr. Stephen LeDrew, has been waging a nationwide campaign against the bill since November of last year. The legislation is, he says, "as dumb as a bag of hammers." He has declared this publicly on many occasions. Yet, honourable senators, that same Mr. LeDrew was denied a hearing of his views when Bill C-24 was in committee in the other place. I am confident that Mr. LeDrew would have no objection if I were to follow his lead, with apologies to Charles Dickens, in *The Pickwick Papers*, 1837, by saying, and I quote: "This legislation is also as dumb as a drum with a hole in it."

Simply put, honourable senators, Bill C-24, if passed, will be bad law and equally bad public policy. Such ill-founded actions of Parliaments past gave rise to the expression, I believe, "The law is an ass." Do we want this to be continued? Honourable senators, I respectfully suggest that the circumstances and manner in which we are being asked by the government to consider this bill, when viewed together, are tantamount to a flagrant abuse of the process of Parliament. I say this without exaggeration for the following reasons.

First and foremost, this bill would implement fundamental changes to the way we manage our democracy in Canada and the way we run our free electoral system that is so envied around the world. Canadians enjoy and cherish a time-tested, constitutional democracy based on the political party system. For Canada's democracy to function well, our political parties must have access to sufficient funding to enable them to operate freely and efficiently, and to conduct appropriate policy research and get

their messages out to the Canadian people in a free and unfettered fashion. This would allow citizens to make informed choices when they elect their representatives for the federal governments, and also allow a strong and viable alternative to always subsist so that voters have a choice, should the incumbent government of the day falter.

Heretofore and currently, honourable senators, we have had a system whereby our political parties have been self-financing, for the most part, with unlimited access to donations from unions, corporations, associations and individuals. We have imposed various checks and balances to avoid abuse, or any perception thereof, and to broaden the base of financial support by individuals and small businesses.

The principal checks and balances, which have worked well, are the following: One, complete transparency through rigid disclosure requirements for all political donations above \$200; two, strict registration and annual reporting requirements for political parties; three, limits on election expenditures by parties in Canada at the constituency and national levels; four, a ban on political donations by non-Canadian individuals and enterprises; five, a modest tax credit with a maximum of \$500 on contributions of up to \$1,150; and six, a fair and just regime that provides for the reimbursement by the government of a portion of election expenses, duly incurred and properly reported upon by individual candidates and registered political parties.

This system has worked well in practice, honourable senators, and it has embodied a modest blend of public funding through the tax credit and election expense reimbursement. For example, in 2000, the last general election year, the national parties were reimbursed \$8 million by the government, and individual candidates who received 15 per cent of the vote received reimbursement of \$15 million.

This current system has not — certainly to my knowledge, in the 30 years we have had it — been at the root of or been the subject of any undue high-profile — or even low-profile for that matter — abuse or scandal. Nor has it had the disadvantage of restricting the freedom of action of Canadian citizens, unions, corporations and/or individuals through a regime of limits on contribution levels such as the one contemplated by Bill C-24.

Under the proposed new system, the estimated cost to the taxpayers during an election year could run as high as \$130 million, I am told, and as much as \$50 million of this would reoccur on an annual basis, not every four or five years. Therefore, the numbers and the excess costs are substantial.

Indeed, there was a cartoon in the *Montreal Gazette*, on Sunday morning, of a gentleman coming in with the mail and his wife was sitting there. She said, "What is that, dear?" He holds out this document and says, "It's the new political finance bill here in Canada. The bill is for us, dear," and so it will be.

Yet we are told by Mr. Chrétien and his supporters that the rationale for this bill, Bill C-24, is the urgent need to dispel a so-called perception amongst Canadians that our political party financing system is corrupt and subject to widespread abuse and undue influence in Ottawa by corporations, the labour movement, and by the mega-wealthy.

• (1850)

As recently as last Thursday, Senator Robichaud said, in this chamber, that the objectives of Bill C-24 are:

...to improve the transparency and fairness of Canada's electoral system and address the perception that corporations, unions and the wealthy exercise a disproportionate influence in our political system.

Honourable senators, I put it to you four-square — no such perception exists in Canada. What would the various legitimate, registered lobby firms have to say about this? What is the so-called or alleged perception about them? Could they be next to be nationalized? Or will they simply laugh all the way to the bank at the government's stupidity, and reap the rewards of Bill C-24, receiving from corporations, unions, and wealthy individuals those funds they otherwise would have given to support the party or parties of their choice? I believe the real answer lies elsewhere.

We are given to understand that Bill C-24 forms part of the so-called ethics package, hastily cobbled together and announced by the Prime Minister in May 2002 when it became evident that he and his government were under a substantial ethical cloud, following the shocking revelations about gross mismanagement of vast sums of public monies from the Transitional Jobs Fund in HRDC. Then there was this curious series of loans that led to the so-called "Shawinigate" scandal. It was soon followed by news of the malodorous, if not criminal, activities surrounding a series of contracts awarded by Public Works Canada to certain advertising agencies in Montreal, Quebec. I am told that we will soon be hearing from the RCMP on a series of charges on this latter subject. Could that possibly be why there is such a rush to push this bill through to early enactment?

Honourable senators, in all seriousness I ask you: Do these spurious reasons justify our agreeing to fundamental changes to a piece of key, and generally well-functioning, framework legislation, which governs an important aspect of how we manage our democracy? The answer, I suggest, is a resounding no.

For centuries, it has been conventional wisdom that change for change's sake or for the wrong reasons is bad business, bad public policy. As early as 1660, the noted British parliamentarian and Secretary of State, Viscount Falkland, dealt with the issue with his memorable and oft-quoted dictum, "When it is not necessary to change, it is necessary not to change."

I respectfully submit, honourable senators, that Mr. Chrétien's so-called issue of perception is merely a smokescreen, a cover-up. We have ample laws on the books, including those in the Criminal Code, to deal with fraud, corruption, abuse of office, the suspicion of and/or the perception of same, and the

mismanagement of public funds by politicians and public officials. Surely we should not agree to dismantle an exemplary political financing system which has served us well since 1974 for such questionable motives, and replace it at great cost to the taxpayers with a new, fundamentally different and untested system which I submit is fraught with flaws and, in fact, has minimal support in Parliament or elsewhere.

For us to agree to do so, honourable senators, would be a sorry failure by us in our duties as senators to the Canadian people to whom we are accountable, especially in a case like this where the very functioning of our democracy is at issue and the basic structure is being summarily tinkered with for no valid reason.

There is more, honourable senators. The improbable rationale underlying this bill is not the only element which constitutes what I have alluded to earlier as the abuse of the parliamentary process. I am troubled by the following questions. I feel strongly that they should be coherently and forthrightly answered for us before proceeding with second reading. They are: First, why is there such unseemly haste to enact Bill C-24? Second, why was it necessary to cut off debate and invoke closure in the other place? Third, why are we senators being asked, directly or indirectly, to forgo the necessary and thorough study this key framework legislation deserves and to proceed to Royal Assent before the customary summer recess? Fourth, what is the pressing reason for passing Bill C-24 now, in mid-June, under stringent time pressure, rather than deferring it until autumn and giving it a full study and the kind of sober second thought required and merited in the special circumstances which prevail? Fifth, is the Prime Minister's autocratic demand for the bill now, rather than in the fall, sufficient reason for us to venture on to that notorious slippery slope which invariably results in bad law and bad public policy?

There are others in this chamber, much better placed than I am, to answer these questions which I have posed, I assure you, honourable senators, sincerely and in the best of good faith.

Leaving aside these disconcerting issues of process, I wish to make it clear that, in my view, the present law on political finances in Canada is by no means perfect. Indeed, there are a number of aspects of the Canada Elections Act which need to be amended and modernized, not only for the sake of consistency but also to respond to problems that have arisen in practice, and to close certain loopholes that have become apparent during elections in recent years. For example, I strongly believe that the present disclosure rules need to be tightened up and expanded to deal with nominating conventions, leadership races, as well as to cover donations made outside election writ periods at the constituency level and to party organizations on university campuses and elsewhere.

Furthermore, the loophole known as the "in-and-out scheme" made popular, apparently, by our friends in the Bloc Québécois, needs to be closed. I also believe that tighter and more practical accounting and reporting regulations would be in order for constituency associations and other local party organizations.

However, a wholesale change in philosophy and structure, the introduction of massive government funding, the imposition of

costly red tape and a host of bureaucratic regulations on local party organizations are things, I respectfully submit, which we do not need in Canada at this juncture.

Bill C-24 is replete with a myriad of awkward and onerous rules and regulations which may make the work of the Chief Electoral Officer, Mr. Kingsley, and his staff much easier, but it will create an administrative nightmare, an unmanageable one, I submit, for the thousands of volunteers and political workers who toil in and around elections to make our democratic system work as well as it does.

The need for reform of our political financing system was recognized by the Mulroney government during the mid-1980s. I refer in particular in this regard to the White Paper on Election Law Reform which was published and circulated in June of 1986 by the Honourable Ray Hnatyshyn, then President of the Privy Council and Government House Leader — the late Ray Hnatyshyn, a great Canadian.

This white paper was part of a process which ultimately led to the setting up of the Royal Commission on Electoral Reform and Party Financing in November of 1989. This royal commission had a comprehensive mandate — to inquire into the appropriate principles and processes that should govern the election of members of the House of Commons and the financing of the political parties of Canada. It was chaired by prominent Quebec economist Pierre Lortie, hence the Lortie commission. Its members included our colleagues Senators Lucie Pépin and Donald Oliver, as well as Messrs. Pierre Fortier, Q.C., Robert Gabor, Q.C., and William Knight. All our major political interests and philosophies were represented.

This royal commission filed a unanimous report on February 13, 1992, following two full years of nation-wide public hearings, supplemented by an extensive consultation process and research program. The report was set forth in four large volumes containing 16 chapters and 265 recommendations. I can assure honourable senators that all the main issues related to party financing and the perceptions surrounding same were investigated fully and dealt with at length in the report. The exercise was massive, thorough and very costly to taxpayers.

• (1900)

This is the kind of process, I would suggest, that should be followed when dealing with possible changes to the basic mechanics of our democracy. Yet, no such process preceded the drafting of Bill C-24, nor can one find any noticeable linkage between the Lortie commission's thoughtful and useful recommendations and the surprising, sudden and far-reaching provisions of Bill C-24.

Honourable senators, I have been wondering for several months where Bill C-24 came from. What is its real purpose? Why are we suddenly making such a fundamental change to Canada's political financing system? We can only hope that informed officials will tell the Standing Senate Committee on Legal and Constitutional Affairs if, indeed, the bill ever makes it to committee.

I mentioned earlier about Mr. LeDrew not being heard by the committee in the other place. On three occasions I wrote and requested to be heard myself, having a modest background in the field, and was refused a hearing.

The reality is, honourable senators, that the Lortie commission unanimously found Canada's political financing system to be one of the best, if not the best, in existence in any democratic system in the world, based on political parties. The commission specifically decided against imposing limits on corporate, union or other financial contributions to candidates and political parties. The commission concluded:

Sunshine is the best medicine to counter public perception of undue influence through financial contributions to candidates or political parties.

The commission continued:

Full disclosure of the size of contributions and detailed information about the source of contributions are an integral component of an electoral system that inspires public confidence.

With a disclosure system that is comprehensive and workable, as well as reasonable limits on election expenses, there is no evidence to justify placing statutory limits on the size or source of political contributions at the federal level.

Timely and complete disclosure helps remove any suspicion about the financial affairs of candidates and parties by opening them up to public scrutiny. Disclosure is also essential in enforcing the laws regulating political finance and ensuring accountability for the use of public funds.

What has changed? I agree fully with the conclusions of the Lortie commission, Senator Pépin, Senator Oliver and others, that limiting political donations, be they corporate or individual, is not the solution to the alleged perception problem and, rather, represents inappropriate law and public policy that could indeed, and likely will, lead to abuses far more egregious than those being touted by the sponsors of this badly flawed, proposed legislation.

Honourable senators, I would only add the following three comments on the issue of limiting corporate and union contributions, be it to \$1,000 or at all, for that matter. First, as Senator Grafstein pointed out last week, there are genuine fairness and freedom of expression issues involved in Bill C-24, all of which cry out for careful study and consideration. Sadly, apparently this cannot be done in the short time frame being allocated to us here in the Senate.

The Hon. the Speaker: I regret to interrupt Senator Angus, but I would ask other honourable senators to carry on their conversations outside the chamber in order that we can hear Senator Angus.

Senator Angus: This is important stuff. I am even convincing myself.

Second, it has been suggested that the banning of corporate contributions to political parties in Quebec has been a major success and should be adopted at the federal level. I suggest that this suggestion is far off the mark. Comparing a provincial regime with the federal regime is like comparing the proverbial apples and oranges. The order of magnitude and the cost of operating the federal political system are vastly higher and more complex at the federal level. Ruling out or drastically limiting corporate giving federally will have totally different consequences than provincially.

Furthermore, it is well-known today, by experienced political operatives, that the law against corporate giving in Quebec is basically honoured in the breach. One who believes that corporations are not very major contributors to political parties in Quebec today could, I suspect, be justly referred to as very naive.

In Quebec, corporate giving has been, in effect, driven underground. The reality is that corporations continue to support Quebec parties and politicians generously, but indirectly and through a variety of dubious schemes and channels that, if carefully scrutinized, would not pass legal muster. However, for perception's sake, a blind eye is turned to this egregious practice.

I seriously wonder whether we wish to participate in importing a similar state of affairs, albeit on a much larger and broader scale, honourable senators, on to the federal scene. I think not.

Third, according to an old adage that was widely quoted here and abroad even more than 50 years ago, money is the mother's milk of politics. Honourable senators, the evidence available to us today is overwhelmingly to the effect that union and corporate contributions are the mother's milk of politics in Canada. By limiting them to \$1,000, notwithstanding the substantially socialistic public funding that is contemplated by Bill C-24, we will be creating a recipe for big trouble in the future. Political fundraisers and the masters they serve are, by their nature, very creative. It will not be long, as sure as night follows day, before indirect channels are found for unions and corporations to continue their munificence going forward, if only in a genuine effort to help preserve a healthy party system, the basis of our democracy.

Another surprising and worrisome aspect of Bill C-24, honourable senators, also involves fairness. As I understand the proposed legislation, it is designed to come into effect on or about January 1, 2004, the beginning of next year. This proposed federal subsidy to our registered parties will be doled out on the basis of the popular vote results of the general election of 2000. According to our calculations, the clear winner will be the Liberal Party of Canada with \$9.2 million. Far behind the Liberals will be the Canadian Alliance at \$5.7 million, the poor little Tories at \$2.7 million, the Bloc Québécois at \$2.4 million, and finally the NDP at \$1.9 million.

Is this a level playing field, honourable senators? How can a party that espouses a just society even contemplate legislation so patently unfair and designed to perpetuate the incumbent regime and possibly bankrupt or severely financially impair the other parties?

• (1910)

I will say no more on this subject, other than to suggest, as an absolute minimum, should the government succeed in revolutionizing the money system in Canadian politics by making the proposed fundamental changes — even though no change is needed — then, at least, start the ball rolling by giving all of the parties a subsidy of equal amounts. The Canadian people can then decide the amounts thereafter.

I have been actively involved with political finances both here in Canada and, to a lesser extent, in the United States for the past 47 years. I believe I have learned a little bit about how the system works in our country. We have an excellent system and it functions well. Let us not muck it up.

As Winston Churchill once said to Clement Atlee after a long night in the House of Commons: "My dear Clement, every time you see something that functions well, you try to nationalize it."

Honourable senators, can we not stop Bill C-24 here and now before we participate in a very costly mistake, one that has the potential to negatively affect the ongoing viability of our parties as we know them and the healthy operation of our democratic process for years to come?

As I said at the outset, we on this side oppose the bill both in principle and in substance. If the bill goes ahead as is, I will be disappointed and, as a parliamentarian, ashamed. We all should be.

Why do we not, just this once, stand up and be counted, honourable senators?

Hon. Gerry St. Germain: Will Senator Angus take a question?

Senator Angus: Of course.

Senator St. Germain: I know of the honourable senator's involvement in political financing. I know he has studied this matter. How does the Liberal Party morally justify the situation where it is now mainly corporations that see fit to contribute, in 99.999 per cent of the cases, with no expectations in return for their contributions? Would this not equate to getting rid of all of the corporate donations to charity and burdening the taxpayers with supporting all charities? Does the honourable senator not see a comparison there?

Senator Robichaud: The answer is no.

Senator Angus: I thank the honourable senator for his question. That is what we call, in the law, a rhetorical question. I believe he knows the answer. The response is, yes, very much so.

Hon. Serge Joyal: I listened carefully to our colleague. He mentioned that, under the proposed plan in the bill, the Conservative Party would receive, and I quote his figure, \$2.7 million. How much money did the Conservative Party raise in the last year — for which information is available — from individuals, corporations, organizations, government reimbursements and so forth? Can the honourable senator tell us this so that we may understand the impact of the proposed bill on the Conservative Party? The honourable senator would know the party's financial position through his experience. How much money did the party raise in the last year for which those statistics are available?

Senator Angus: I thank the honourable senator for the question. I wish I could provide specific numbers.

Senator Carstairs: We can.

Senator Angus: I wanted to have a table showing how much money was raised by all the parties. It was key to my speech. The figures simply are not available. One of the things that is lacking in the present law, as I mentioned earlier, is the disclosure between elections at the constituency level. There is no doubt that, today, big money can be given at any riding level, campus organization or X-Y-Z Liberal association and it is not disclosed. I do not know the answer to the question.

As far as corporate donations are concerned, it was spelled out well in the evidence that was given. A report is released by the Chief Electoral Officer every year. I cannot give the exact number now. I can tell my honourable friend that, in the party that I represent, donations have varied greatly over the years. We recognize that when this law came into effect in 1974 with the tax credit, there was a great opportunity for Canadians — little Canadians, individuals, small and medium corporations — to donate \$100 and get a \$75 receipt. This produced a tremendous amount of money for our party: an average of close to \$5 million a year for many years. We had good advice on how to do it. We paid for it from consultants. I think we were maybe a decade ahead of the other parties. I was at many meetings with Senator Kolber, with Bill Knight, and with the operatives of other parties, to tell them how we did it. Corporate money follows the message. If it looks like you are winning, you get more. Last year the Liberals got more corporate money than the Conservatives.

However, it does not create scandals. Shawinigan did not happen because of the Royal Bank giving \$50,000 to all four parties, or three parties, which it did. All the banks contributed equally — they must have a meeting — but I tell them it that is terrible that they give only \$50,000. They should give \$250,000, minimum, because our system is built on private enterprise financing the parties. If you want to subsidize it, it is not indexed and the parties will go bankrupt.

I know the amount given to the Liberal Party because it is in the statements presented by Mr. LeDrew. I read in yesterday's *The Globe and Mail* that the Tory party has a \$4.5 million debt. How will it ever pay that off?

[Senator Angus]

Honourable senators, this bill is a recipe for the extinction of our parties as we know them. The bill as drafted will give a fairly substantial leg-up on January 1. As I said, "The winner is...." It is unconscionable that they can start off by saying, "We are giving ourselves nine and giving the others a pittance." It is not good news.

I am not involved in fundraising now, but I am very concerned that we would tinker with our system for the wrong reasons.

Hon. Consiglio Di Nino: Honourable senators, I come at this subject from a different viewpoint. I spent pretty well all of my life in the financial services sector and numbers are my game. I am cursed with the need to always look at what the numbers tell me. It is for that reason that I began to look at the cost of the political system in this country some three or four years back. Those senators who have been around have heard me speak on this topic before.

When I first began my review of this bill, I was pleased that the Prime Minister had finally seen the light and had perhaps been listening to what I had been saying for years about electoral financing in this country. Having now done a preliminary assessment of the proposed funding scheme, I realize that I was sadly mistaken in my initial assumption.

Honourable senators, the bill amounts to a shameless cash grab. It appears as if it is designed to pick the taxpayers' pockets for more than it actually costs to run the federal political system in Canada. It is a charade that needs to be exposed. It is little wonder that this legislation was supported by most Liberals in the other place. They surely know the benefit.

• (1920)

Honourable senators, if Bill C-24 had been in effect in the year 2000, and here I can shed some light on Senator Joyal's question about some numbers, the Liberals would have been reimbursed roughly \$6 million in excess of their operating expenses. These figures do not include the reimbursement to individual candidates — those who achieved the 15 per cent threshold.

Honourable senators, for the record, allow me to state clearly that I am not opposed to the principle of this bill, and for years now my position has been quite clear. Federal political parties are now funded by the public purse under the current system, by some two-thirds of expenses, before the passage of this legislation. Unfortunately, I believe that Bill C-24 goes much further than necessary.

With the limited time I have, I intend to speak to my main argument in respect of this bill. However, there are other issues to be addressed, some of which have been identified by Senator Angus, on which this chamber needs to focus during committee deliberations and debate.

My main concern is that if Bill C-24 were to pass and be proclaimed, Canadian taxpayers would be subsidizing the federal

political system in excess of what it actually costs to run elections and parties in this country. Starting with the premise that taxpayers already pay some two-thirds of this cost, consider the suggested changes to the funding formula. First, the tax credit on individual contributions has been increased to 75 per cent on the first \$400 donated; 50 per cent on donations between \$400 and \$750; and one-third on donations between \$750 and \$1,275. Thus, the maximum tax credit on individual donations rises from \$500 to \$650. Second, in an election year, candidates who receive 10 per cent of the votes cast in their ridings will be reimbursed 60 per cent of their election expenses. This will increase funding from the public purse in two ways: these candidates will now receive a greater election expense rebate, from the existing 50 per cent to 60 per cent, and the threshold to qualify for these rebates will be reduced from 15 per cent of the votes cast to 10 per cent, thereby making more candidates eligible for the rebate. Third, political parties will receive a refund of 50 per cent of their election expenses, up from 22.5 per cent under the present system. That would be a huge windfall. Fourth, this bill establishes an annual allowance of \$1.75 for votes received in the previous election for political parties that achieve the minimum of 2 per cent of the vote nationally, or 5 per cent of the vote in a riding in which they run a candidate. That will result in an enormous increase in the contribution from the treasury for the funding of the political system.

Honourable senators, to illustrate the financial implications of this proposed legislation, I have applied the proposed formulae to the year 2000 expenses of the Liberal Party. In 2000, the Liberals spent roughly \$20 million. If Bill C-24 had been in force then, the Liberal Party would have received a refund of some \$9,785,000-plus, an allowance totalling \$9,191,000. Fully 97 per cent of their costs would have been refunded. That is over and above the direct contributions of nearly \$7 million that they received from individuals. That would have amounted to \$6 million more than they spent, and I did not include any corporate donations in those figures.

I should add that it seems as though, when the same formula is applied to all political parties in the year 2000, the last year for which full information is available, each one would have actually received a refund greater than their expenditures had Bill C-24 been in place then. I certainly hope that the committee will question departmental officials and other appropriate witnesses about this. Again, let me be clear: I do not oppose public funding of political parties; we are there already. However, the question is: Why should taxpayers give political parties profits?

Also, honourable senators, if we are to fully fund political parties from the treasury, other than membership dues to an association, then we should take it one step further and ban all donations to political parties, because, otherwise, it is a charade. I should add quickly that the German system funds political parties, to a large degree. Mr. Helmut Kohl, who is now referred to in Europe as "Don Corleone," got into trouble because the system did not ban political contributions. They got greedy; they wanted more money, and that is how they got into trouble. There is only a limited, reasonable number of dollars that a political party could truly need. We should provide that amount because the system already does that.

The financing scheme proposed by the government is also extremely complex. Its implementation will require nothing short of a mass mobilization of people and resources — unnecessary expenses in a fully-funded system. A system of full disclosure and direct public funding would also go a long way towards helping to restore public confidence in our nation's electoral system.

Another issue that has not been explored adequately is what has been called the "sleeping issue" of this bill — the fact that control of political funding will be more securely in the hands of politicians and political parties. This will lead to the concentration of enormous power in the hands of political leaders, with little regard for riding associations and individual candidates. Political parties will receive large sums of money and we should be concerned about whether this money will be fairly distributed to associations and candidates. That is where the foundation of democracy lies. Politicians will establish the rules of distribution. As time goes on, honourable senators can be sure that there will be pressure to amend the legislation to increase the contributions of tax dollars to operate the political system. It has been happening for years, even though indexing provisions have been included in this bill.

This process, in my opinion, is bound to lack full accountability and fairness. Why not save the time and the money by introducing a simplified system of public funding overseen by an impartial, independent, non-partisan group charged with setting up and enforcing standards and rules of conduct? The promotion and protection of the democratic system would be well served.

I have spoken often over the past two or three years about having an open, honest and thorough debate on this issue. Honourable senators, Bill C-24 gives us the opportunity to do precisely that. I am disappointed, as expressed by Senator Angus, with the speed at which this proposed legislation has been rushed through the other place. I am hopeful that honourable senators will discharge their responsibility as the chamber of sober second thought and look thoroughly, freely and effectively at this bill and its implications. May honourable senators take their time, and not rush this important piece of proposed legislation through the house, as happened in the other place.

In closing, honourable senators, I will repeat my main theme: If passed, Bill C-24 would result in the taxpayer paying, in effect, more than it costs to operate the federal political system. This is a no-brainer: The system should be simplified and the responsibility and authority placed in the hands of a group of impartial, independent and respected Canadians with a mandate to equitably — and I underline that word — distribute the funds to Canadian political parties with the principal goal of promoting and protecting democracy.

• (1930)

Hon. Douglas Roche: Honourable senators, I enter this debate as one who was a member of the House of Commons for 12 years, fought four federal elections, and have some experience in the raising of money for election campaigns. I consider Bill C-24 a momentous step forward in levelling the political playing field. It

will lead to an improvement in the ethics of elections. It will be highly beneficial for our democratic system. I am not saying the bill is perfect. Few pieces of legislation ever achieve that distinction, but we should pass this bill now, while Parliament has the opportunity to do so.

Bill C-24 has two features of overarching importance. First, it severely reduces the influence of corporations on the legislative process. Second, it provides public funds to candidates for election in an appropriate manner.

Corporations with great access to great resources have been able to dominate political financing with substantial contributions. As a result, there is currently a perception, among Canadians, that businesses are able to influence public policy. Indeed, why else would they contribute?

Corporate influence comes at the expense of the individual on whom our democratic system is based. It is not corporations but individuals who have the right to vote. However, this vote can be rendered virtually meaningless if political parties are beholden to corporate interests for the money they need to persuade the electorate to vote in their favour.

Corporate financial power, when exercised in the political arena, serves to strengthen the influence of key executives and shareholders. These individuals are drawn from the wealthiest Canadians, and the influence they enjoy as a result of their ability to direct contributions threatens to drown out the voice of the middle class, let alone the poor, in the political process.

In the United States, corporate power has been able to capture policymakers who depend on their financing for re-election. Pressure from the military-industrial complex is a major reason for the traditionally high levels of U.S. military spending, which has now reached an unprecedented \$400 billion annually and is fuelling a budget deficit of similar proportions.

The New York Times reported yesterday that President Bush is set to raise \$20 million over the next two weeks as part of a re-election effort that expects to attract \$170 million in contributions, much of it from professional lobbyists who work for big business. Why is he able to solicit such large amounts? Democrats claim it is because he can sell access, access through which to influence public policy. It should be noted that the Democrats are not necessarily opposed to this system but are merely concerned that they will not be able to keep up.

Fortunately, the financial corruption of the political process in the United States has not yet infected Canada, certainly not to the same degree, but elements of the military-industrial complex do exist in Canada and, without a doubt, seek policies that will chiefly benefit the corporations themselves. The push for Canada to join the U.S. missile defence system so that Canadian firms can be eligible for contracts is but one example.

Now is the time to assert ourselves to protect the basic integrity of the Canadian system and to prevent our politics from aping the U.S., where the buying and selling of politicians has reached scandalous proportions.

The developing connection between contributing businesses and political parties in Canada should give us pause. To give one example, nine of the top ten legal firms, in terms of dollars billed to the government, in 2000, for federal prosecution contracts, donated to the Liberal Party in 2001. The top five firms alone contributed \$52,000. When asked, a spokesperson for one law firm said that while contributions were not necessary to receive government contracts, it was considered polite, for major contractors, to make major donations.

An official in the Department of Justice similarly acknowledged that "it would be very human for major contractors to give back to the governing party." Even if these donations did not affect the distribution of government contracts — which is next to impossible to verify — the party in government should not be able to attract contributions as a result of its control of the public purse.

The government claims that the bill is aimed at fighting a public perception of undue corporate influence. I would go one step further and say the bill will also serve to guard against the possibility of such an undue influence emerging.

It is true that the great majority of policy-makers, both in the legislatures and the public service, do their utmost to serve the interests of Canadians. Regardless of the true level of influence currently enjoyed by corporate donors in Canada, it is important to improve our system, not only to guard against a public perception of that influence, but also to prevent present and future politicians from succumbing to the temptation to abuse power.

Parties require funding in order to carry out their work of organizing the electorate and facilitating the flow of information, et cetera. Lost funding from corporate and union donors will be replaced by a public subsidy based on the number of votes the party attracted in the previous election. As a result, public funding will now constitute roughly 90 per cent of party financing, ensuring that corporate interests will not overwhelm the concerns of individual voters. Instead, every vote will count in determining the levels of party funding.

This bill will address current problems in our system of political financing in several important ways. Corporations and unions will be prohibited from making donations to federal parties and will be allowed only limited contributions of \$1,000 per party to local constituencies. As a result, it will no longer be "polite" for recipient firms of government contracts to donate directly to the governing party; instead, it will be illegal.

The bill will also increase the role of individuals in directing how political financing is distributed. On the one hand, Canadians will be able to contribute up to \$5,000 to a federal party, including its constituencies and candidates, and on the other hand, every voter will have control over which party will receive the \$1.75 per year from the public treasury that is attached to each vote. Increasing the contribution levels qualifying for substantial tax breaks will also make it more affordable for individuals to make large contributions if they wish.

Finally, the bill will provide for increased transparency concerning the identity of significant contributors, for the first

time extending reporting requirements to constituency associations and closing a considerable loophole in the current system. This transparency is the key to fighting public perceptions of undue influence while, at the same time, ensuring that anyone who does seek to abuse the system will be subject to public scrutiny.

Honourable senators, the principles behind this bill are truly laudable and should enjoy broad support in the Senate. There is no denying, however, that it is a complicated piece of legislation. There have been numerous suggestions on all sides for amendments to strengthen the bill and ensure against any undesirable indirect consequences of it. As Senator Robichaud already noted, the House of Commons committee heard from 40 witnesses and made 81 amendments to the bill. It is possible that further improvements could be made to this legislation.

• (1940)

However, we must recognize the political reality in which we find ourselves. Further amendments, though they might marginally improve the bill, could also prevent it from receiving Royal Assent in a timely manner. Instead, recommendations by the Senate committee for implementation and review of the new law would be quite in order. There is a danger that, in focusing too much on improving this bill, we might sacrifice the central principles it advances by missing the opportunity that exists right now to provide a legal basis for them.

Honourable senators, we must not let the "best" become the enemy of the "good." Instead, we must seize this unique opportunity to move ahead with these vital reforms. Let us move ahead now.

I believe that this bill represents an important step towards strengthening Canadian democracy by removing the shadow of corporate influence from political financing. Instead, individuals, through their ballots and cheque books, will direct the distribution of funds. By limiting both the opportunity for and the perception of corruption through increased transparency, this bill will encourage greater public confidence in our political institutions.

This bill is ethically sound and will help to re-energize democracy at a time when voter turnouts have fallen. I urge all senators to support the bill and to advance the public good with which we have been entrusted.

Some Hon. Senators: Hear, hear!

Hon. Lowell Murray: Honourable senators, I had not intended to take part in this debate, and I shall not be long because there are a couple of other matters on the agenda tonight, on which I want to be heard.

Far be it from me to find fault with the speech we have just heard by Senator Roche. I appreciate the conviction that he expressed and the experience that he brings to bear on these matters. As a matter of fact, like him, and like Senator Di Nino, I approve of the principle of the bill.

However, he mentioned the manifold abuses that take place in the United States, and he expressed the hope that we would not see such abuses in Canada. That got me to thinking. In the United States, corporate donations to parties and candidates are banned by law. Corporations, business people and big money have found hundreds of ways to get around that prohibition. We have had the rise of the political action committees and other committees by which big money funnels funds to parties and candidates at the state, local and national levels in ways that are far less transparent than the system that we have here today.

I must say, again, that while I approve of the principle of the bill, one of the things I have a hard time getting my mind around is whether the restrictions that the bill would impose will not lead to opening up other avenues of abuse. That is one problem.

I agree with some of the criticisms that Senator Angus has made, and I certainly share with him a concern that some of the provisions of the bill, as they relate to riding associations and local candidates, might prove to be onerous on those people who are, as we know, volunteers in local riding associations across the country. This would be especially onerous in places where any party is not strong organizationally.

Even the present law imposes a bit of a burden on the constituency associations. It is only because there is usually at least one sympathetic lawyer and one sympathetic chartered accountant willing to come forward and act pro bono in their professional capacities that we are able to find ourselves in conformity with the law.

Those are all very serious concerns. I do think that they must be canvassed before the full weight of this legislation falls upon the country in a general election. That also speaks not just to the possibility of amendments to this bill but even with that, the wisdom of its coming into force within the next 12 months.

However, as I say, I agree with the principle of the bill.

Some Hon. Senators: Question.

The Hon. the Speaker: Is the house ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

Motion agreed to and bill read second time, on division.

[Translation]

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

[Senator Murray]

On motion of Senator Robichaud, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

BUDGET IMPLEMENTATION BILL, 2003

THIRD READING—MOTION IN AMENDMENT— DEBATE CONTINUED

On the order:

Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Robichaud, P.C., for the third reading of Bill C-28, An Act to implement certain provisions of the budget tabled in Parliament on February 18, 2003.

Hon. Pierre Claude Nolin: Honourable senators, it was after hearing Friday's debate that I decided to speak on Bill C-28 at third reading.

Honourable senators, the problem before us is serious. If we do not remedy this situation immediately, the very balance of Canada's political system is at risk.

This balance depends on the recognition and survival of three distinct and complementary branches of the State. As honourable senators know, I am referring to the executive, legislative and judicial branches.

Honourable senators, it is essential to remember, during our reflection on this issue, that each of these branches must operate in a manner consistent with our Constitution and our Charter of Rights and Freedoms.

Parliament, the legislative branch's functional body, passes legislation, and the executive branch is responsible for its implementation. Although the exact and reasonable distinctions between the executive and the legislative branches are unfortunately and too often illusory, the independence and impartiality of the judiciary, however, alone suffice to maintain the balance of our social and political system. The public's perception of this balance is equally important.

Everything depends largely on the respect that is the judiciary branch's due. The courts act as adjudicators of our legal disputes. To this end, the opposing parties exercising their respective rights put their faith, therefore, in the wisdom of the court, which will rule on the matter according to the laws currently in force.

• (1950)

Need I remind you, honourable senators, that, in the eyes of the law, even the Crown is on the same level as the most humble among us? The judicial branch does not wield its power through judges alone. Of necessity, it operates through many players. Lawyers are instrumental in its operation. Society's respect for the judicial branch must extend to all those who play a part in carrying out its role.

The situation we have before us with Bill C-28 challenges the role of the courts and some of the actors present. If one party to a dispute can decide to use its power, strength or wealth to

challenge and thwart a court decision, this would be saying might is right. If a lawyer can decide to renege on his consent to judgment, as well as go against the court's decision, and if he is acting on behalf of the Crown, this again would be saying might is right.

This is abhorrent to our democracy. It calls into question the cohesiveness, the very existence, of the rule of law. In the case before us, the government is justifying its action by claiming to have given conditional consent to judgment, through its legal counsel, but subject to subsequent retroactive legislative annulment.

The facts are totally contrary to this: an exchange of letters between counsel before the consent to judgment was submitted to the judge indicated this possibility. This sword of Damocles hung over the rights of the parties from December 2001 to December 2002. For a year, the Minister of Finance hemmed and hawed over the possibility of introducing legislative amendments that would have abrogated the rights in dispute before the courts.

When the lawyers tired of fighting and finally gave their consent to judgment, there was nothing conditional about it. The court's decision was final and executory, the equivalent of a judgment, the outcome of arbitration on a point under dispute. This judgment confirmed the right. The court would never have consented to a conditional judgment.

Today we are being asked to extinguish those rights retroactively. This approach is contrary to all of the principles of law that ensure the legitimacy of the judiciary process. It is our most pressing duty to prevent a reoccurrence of such a situation.

We, as senators, having, with reason, to keep our distance from partisanship, must reject any attempt by the government to deny the Canadian judicial branch's freedom of action.

Let us put an end to this ill-conceived idea to retroactively deny rights and let us uphold the right of school boards that do not have the means to have a system, a transportation service for students and must contract out to service providers other than their own. Let us uphold the right to a 100 per cent GST rebate, as ordered by the Federal Court of Appeal.

A stanza in the French version of our national anthem, *O Canada*, reads as follows:

...Et ta valeur, de foi trempée, protégera nos foyers et nos droits...

Let us stop nitpicking about the meaning of our national anthem and start respecting its spirit.

MOTION IN AMENDMENT

Hon. Pierre Claude Nolin: Honourable senators, for all these reasons, I move, seconded by Senator Murray:

That Bill C-28 be not now read a third time but that it be amended in clause 64, on page 55:

(a) by deleting lines 11 to 39; and

(b) by renumbering clauses 65 to 130 as clauses 64 to 129, and any cross-references thereto accordingly.

[English]

Hon. Lowell Murray: Honourable senators, the effect of the amendment that Senator Nolin has proposed would be to allow the Federal Court judgment to operate across the board, as it were, to all those school boards that would be affected by that judgment.

A point of order has not been raised as to receivability. I do not anticipate one, although it is always in order, at least until the vote is taken. Also, there is always the possibility that in the other place, if this amendment goes through, we may hear some objection as to what is possible with or without a Royal Recommendation and what it is possible for the Senate to do with a bill of this kind. I should like to put on the record comments in that respect, as we open this debate on Senator Nolin's amendment.

I am the first to notice, in my research, that there is some confusion on the point if one reads the authorities. For example, in the *Companion to the Rules of the Senate of Canada*, put out in 1994 under the direction of our Committee on Privileges, Standing Rules and Orders, as it was then, Beauchesne is quoted from the sixth edition, page 183 to 185, paragraph 596:

• (2000)

...an amendment infringes the financial initiative of the Crown not only if it increases the amount but also if it extends the objects and purposes, or relaxes the conditions and qualifications expressed in the communication by which the Crown has demanded or recommended a charge.

Clause 64 which would be removed by Senator Nolin's amendment is not really imposing a charge, but it is a way of limiting the liability of the government in view of a certain court decision.

The statement in Beauchesne that an amendment infringes a financial initiative of the Crown even if it "relaxes the conditions and qualifications" seems to be at variance with other authorities, including Erskine May, whom I found quoted by the Speaker of the Senate of the day on February 20, 1990.

POINT OF ORDER

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I rise on a point of order. This is my first opportunity to rise, since I was only able now to compare the amendment introduced by Senator Nolin with the ruling of the Speaker.

It would appear to me that the amendment which the honourable senator has introduced tonight is in substance exactly the amendment that was raised last week, which Your Honour declared to be out of order.

The Hon. the Speaker: A point of order has been raised. It was anticipated that it might be.

Senator Murray, do you wish to speak to this point of order?

Hon. Lowell Murray: Honourable senators, I think that intervention was helpful, although I am not sure.

Senator Nolin was at some pains to find an amendment that was not identical to or very similar to the amendment that had been ruled out of order the other day. Though I do not have His Honour's ruling in front of me, I believe he said that it was open to the Senate to delete a charge altogether from a financial bill. To the extent that clause 64 can be considered a charge, Senator Nolin is moving to delete it.

Honourable senators, let me continue by quoting another authority. I refer to Erskine May as quoted by the Senate Speaker of the day on February 20, 1990, who said:

No special form of procedure applies to proposals to reduce existing charges, and they may be moved in the House of Commons or in Committee without the Royal Recommendation.

Erskine May goes on:

A proposed reduction of a charge may consist in reducing its amount, or restricting its objects or inserting limiting conditions, or shortening the period of its operation...

That would seem to be quite at variance with the citation from Beauchesne which I cited for honourable senators earlier.

There are some other rulings by Speakers over the years. I wish to refer to one from June 18, 1985, when the Speaker said:

If we analyzed the situation more closely, we would be obliged to conclude that if the motion was accepted it would not impose additional expenses but would simply maintain the *status quo ante*.

I suggest that is precisely the effect of Senator Nolin's amendment. It would restore the *status quo ante* in respect of the judicial decision that was arrived at. What the government is attempting to do with clause 64 is limit its liability. This is on all fours with the decision taken by the Speaker on June 18, 1985.

There was another decision on May 31, 1990. Again, quoting from Beauchesne's fifth edition, paragraph 527, the Speaker of the Senate said:

So long as an existing tax is not increased, any modification of the proposed reduction may be introduced in the committee on the bill, and is regarded as a question not for increasing the charge upon the people but for determining to what extent such charge shall be reduced.

A similar situation arose a few years ago, and it is in the memory of many honourable senators here, when the present government introduced the so-called Pearson airport bill. One of the provisions of that bill sought to limit the liability of the government by precluding access to the courts for those who believed themselves affected. As we know, the bill was defeated here in the Senate. However, if one of our amendments, which

had been to restore access to the courts, had been passed, then the government's attempt to limit its liability would have been defeated. It clearly was going to cost the government money. The situation with which we are faced here tonight is not dissimilar.

Finally, let me take honourable senators through several amendments which were proposed and defeated, but which were received by the Chair at the time the GST bill was before us in 1990. I turn first to October 30, 1990, when Senator MacEachen, the Leader of the Opposition moved:

That Bill C-62 be not read the third time but that the Schedule of the Bill be amended, on page 342, to make provision for reading material by adding to Schedule VI, and numbering accordingly, a new heading and Part as follows:

"READING MATERIAL

1. A supply of a book, periodical literature or other reading material."

That motion would have exempted reading materials from the GST. It was to reduce the incidence of that tax.

Later, on November 8, Senator Gigantès moved:

That Bill C-62 be not now read the third time but that it be amended by changing the tax credit threshold provided thereunder...

It goes into considerable mathematical detail about how that is done. When he spoke to it, he explained it by saying:

Honourable senators, paragraph (a) of this amendment establishes that the maximum amount of GST credits and the turning point shall be indexed to the rate of inflation as measured by change in the Consumer Price Index. At present the bill provides for indexation at the rate of inflation less 3 percentage points.

Clearly, this was an amendment that would cost the treasury money. According to some people, such an amendment would have been out of order.

On November 13, Senator Kolber moved:

That Bill C-62 be not now read a third time but that it be amended to provide transitional relief to registered traders, by permitting them a rebate equal to the tax value of their inventories.

He added, when he spoke to it:

The amendment on which I have the honour to speak tonight will ensure fairness for business and provide savings for consumers.

What would that do, except be an additional charge on the treasury because the government would not have been able to collect the revenue that they were providing for in that bill for the GST?

There were others. On November 14, Senator Olson moved:

That Bill C-62 be not now read a third time but that the Schedule of the Bill be amended to include within Exempt Supplies certain medical, educational and governmental services...

On November 20, Senator Perrault moved to give tax-free status to books, children's clothing and non-prescription drugs.

I cannot forbear to mention that on November 6, 1990, none other than Senator Dan Hays —

Some Hon. Senators: Oh, oh.

Senator Murray: — moved:

That Bill C-62 be not now read the third time but that the Schedule of the Bill be amended, on page 342, to make provision for electricity and heating fuels by adding to Schedule VI, and numbering accordingly, a new heading and Part as follows:

"ELECTRICITY AND HEATING FUELS

1. A supply of electricity and heating fuels."

• (2010)

Senator Hays helpfully added, in his explanation:

The effect of the amendment is to amend Bill C-62 by adding to the definition of those goods or services which constitute zero-rated supply.

Later he said:

In other words, they would not pay the tax and they would not be entitled to claim it back as an input tax credit.

Honourable senators, I want to make the point, in anticipation of some argument from the other place, or even a point of order here, which I think materialized in Senator Carstairs' intervention, that while the Royal Recommendation is necessary for a charge upon the treasury, and while obviously it does not lie with a private member of this house or the other House to introduce a tax measure or to increase a tax, there are a number of things that can be done in the context of a bill of this kind that are perfectly in order, and perfectly consistent with both the constitutional and parliamentary tradition and practice in this Parliament.

One thing we could do is lessen a tax, if we saw fit. Another thing we could do is relax the conditions of a tax, if we wished. We can lessen the incidence of a tax. We can lessen the rate and lessen the incidence. We can restrict the application of the tax, if we so desire. We can deny the government the right to limit its liability, as we were intending to do in the Pearson airport bill, and as Senator Nolin's amendment would have us do now.

There is a much broader field of options open to honourable senators and to honourable members in the other place, faced

with a money bill, than is sometimes thought. Any reading of all the authorities that I quoted except one, and of the precedents in this place, will support my contention that Senator Nolin's amendment is perfectly in order.

Hon. Wilfred P. Moore: Honourable senators, I should like to speak to this amendment.

The Hon. the Speaker: We are currently on a point of order.

I will take this matter under consideration. I thank Senator Carstairs and Senator Murray for raising the matter. I will make a ruling as soon as possible.

SPECIFIC CLAIMS RESOLUTION BILL

REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the fourth report (revised) of the Standing Senate Committee on Aboriginal Peoples (Bill C-6, to establish the Canadian Centre for the Independent Resolution of First Nations Specific Claims to provide for the filing, negotiation and resolution of specific claims and to make related amendments to other Acts, with amendments) presented in the Senate on June 12, 2003.

Hon. Thelma J. Chalifoux moved the adoption of the report.

She said: Honourable senators, I rise today to speak to the fourth report of the Standing Senate Committee on Aboriginal Peoples in which the committee has reported Bill C-6, the Specific Claims Resolution bill, with amendments and observations.

As many honourable senators will know, Bill C-6 has been a source of controversy in the Aboriginal community. This led to the committee receiving more than 50 requests from First Nations groups to appear before it.

In order to ensure that the First Nations who did appear before the committee were given adequate time to present their views and have a meaningful discussion with members, 14 groups were invited to Ottawa. In selecting these groups, where possible the committee invited those groups with a regional or provincial mandate to allow for presentations from coast to coast to coast. All other groups who requested an opportunity to appear were invited to make a submission in writing in order that no group was denied the opportunity to express their concerns to the committee.

In addition to these groups, the committee heard from Professor Michael Coyle of the University of Western Ontario's law school, as well as the Indian Claims Commission and, of course, the Minister of Indian Affairs and Northern Development.

Finally, the committee spent a great deal of time with the Assembly of First Nations as they provided us with a comprehensive legal analysis of the bill from their perspective over the course of three meetings.

Throughout all of its meetings, the criticisms the committee heard seemed to be universal. There were concerns about powers of the tribunal, the cap on financial compensation and the level of consultation with First Nations in making appointments. These are the concerns the committee chose to address in its amendments.

First, the committee amended clause 47 to give the commission the power to summon witnesses and order the production of documents, powers without which it would be difficult for the commission to fulfil its mandate.

The committee also amended clause 56 to raise the financial cap on claims to \$10 million, thereby making this process available to a greater number of claimants. It is important for honourable senators to note that this amendment does not involve an increase in appropriations.

The committee also amended clause 76 and added new clause 76.1 to ensure that, both in making appointments to the commission as well as in conducting the mandated review of the legislation, First Nations are given the opportunity to make representations to the Minister of Indian Affairs and Northern Development.

With respect to the new clause 76.1, the committee also added clause 77.1, which provides a transitional provision to ensure that those who are claimants under the current specific claims policy of the Government of Canada are also entitled to make representations with respect to appointments.

Finally, the committee added new clause 76.2, which seeks to protect the impartiality of the commission by limiting employment with claimants for certain appointees following the completion of their term.

This legislation will not solve all the problems with the specific claims process in Canada, but it is an important beginning. Undoubtedly, this process will continue to evolve and to that end, the committee has appended observations that we hope will help guide the minister as he reviews this legislation within three to five years.

On motion of Senator Atkins, for Senator Stratton, debate adjourned.

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Leave having been given to revert to Notices of Motions:

Hon. George J. Furey: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on Legal and Constitutional Affairs have power to sit at 3:30 p.m. on Tuesday, June 17, 2003 even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

[Senator Chalifoux]

The Hon. the Speaker: Is leave granted, honourable senators?

Some Hon. Senators: Agreed.

The Hon. the Speaker: I will allow Senator Cools to take her seat. She is wondering why Senator Furey is requesting leave.

Perhaps Senator Furey will accommodate her.

Senator Furey: I have no problem, Your Honour; I will accommodate Senator Cools.

We have just had Bill C-24 referred to the committee. Quite a number of groups and witnesses want to be heard. We are trying to hear as many of them this week as possible.

• (2020)

Hon. Anne C. Cools: Honourable senators, it should be understood that whenever a senator rises to ask for leave to do something that is not usually done, courtesy at least demands that an explanation be given. Leave is usually forthcoming, but it would be nice if senators would explain.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

[Translation]

CANADIAN INTERNATIONAL DEVELOPMENT AGENCY BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Bolduc, seconded by the Honourable Senator Cochrane, for the second reading of Bill S-17, respecting the Canadian International Development Agency, to provide in particular for its continuation, governance, administration and accountability.
—(Honourable Senator De Bané P.C.).

Hon. Pierre De Bané: Honourable senators, I speak today on behalf of CIDA to point out some reservations about Senator Roch Bolduc's bill respecting the Canadian International Development Agency providing in particular for its continuation, governance, administration and accountability.

I would like to state right from the outset that I truly understand the underlying motives of my honourable colleague, Senator Roch Bolduc, in his bill, which is intended to set up a rational framework for CIDA's activities in foreign lands and to propose guidelines for our actions.

Nevertheless, I would like to explain the reservations and objections the minister responsible for CIDA has regarding this bill.

Honourable senators, Canada has set up a program of aid to development that is effective and well regarded, which meets the needs of the developing countries and, to some extent, the new economies of the former Soviet Union, as well as Central and Eastern Europe.

My colleagues know that Canada, through CIDA, contributes greatly to the international community's efforts to promote equitable economic growth and to raise the living standard of the disadvantaged by supporting reform of public and private sector institutions and by fostering a climate favourable to economic growth.

Canada also tries to improve the living conditions of low-income persons, those who have nearly nothing, by investing in various sectors such as health, nutrition, education, the fight against HIV/AIDS, malaria and other communicable diseases, and recognizing equal rights of men and women.

CIDA's participation in protection, conservation and management activities has enabled the developing countries to increase their capacity and achieve a more sustainable environment. Canadians from a variety of professional backgrounds: law enforcement officers, judges, lawyers, human rights specialists, work in conjunction with the developing countries and our partners in new economies to improve governance structures, bolster civil society and improve the respect of democratic rights and principles.

CIDA also reacts to humanitarian crises arising out of natural disasters or conflicts. I am thinking, for example, of earthquakes, such as the two major ones that have just occurred in Algeria. As well, it supports the long-term reconstruction projects that must follow.

Honourable senators, in all sincerity, I would like to congratulate our colleague, Senator Bolduc, for having undertaken to address this considerable challenge. We can understand, moreover, why there has been no legislation adopted concerning CIDA during its 35 years of existence.

The underlying idea of Senator Bolduc, to put a little order into all this so that CIDA's action internationally reflects the principles on which there is country-wide consensus, is an idea that bears witness to his concern for logic and consistency.

In fact, it is also extremely difficult to come up with a clear mandate for a development cooperation program and to reconcile this mandate with foreign policy. Many specialists in this area feel that including all of this in legislation is a task that is very difficult, if not impossible. If I understand the fundamental idea behind Senator Bolduc's bill correctly, it would give CIDA a legislative foundation and a mandate to support sustainable development activities in a way that is consistent with Canada's values, foreign policy and international standards on human rights so as to contribute to security, equity and prosperity around the world.

CIDA's main objective in carrying out its mandate would be to promote economic development and reduce poverty in recipient countries. According to Senator Bolduc, the Minister of Foreign

Affairs would be responsible for directing the agency. As for the President, he would be the director of the agency, which he would administer under the authority, monitoring and control of the minister.

Honourable senators, this would be a fairly complex system and there is nothing to guarantee how it would all work on a day-to-day basis.

Development cooperation has been one of the distinctive features of Canadian foreign policy under every government. It must promote our strategic priorities and our current international obligations. The mandate in this bill differs substantially from what we see in Canada and around the world. It contains an outline of the most recent principles in foreign policy. It does not refer to public life or developing countries. Two terms with precise definitions that have been approved by Canada and agreed to with other countries.

• (2030)

It might have been desirable to pay more attention to poverty reduction, which is the primary goal of international aid measures, including those implemented by Canada.

The argument could also be made, honourable senators, that this bill provides a direction that is not in perfect harmony with a number of key issues; namely the relationship between development cooperation and foreign policy.

For example, subclause 14(2) would prohibit the allocation of resources for the purpose of promoting Canadian trade and commerce. I agree that development aid should be determined above all by the needs of developing countries and the poor but, at the same time, other clauses require that the direction given the agency must, and I quote:

...be consistent with other components of Canada's foreign policy.

Honourable senators, given that trade and commerce are an integral part of our foreign policy, what does this mean in terms of aid and promoting trade and commerce?

CIDA is also concerned by the requirement that development aid from the agency will go only to countries that provide evidence of good government and sound public administration.

Many developing countries need aid because they do not have good government or sound public administration. Although many have made progress in this respect, often thanks to Canadian aid, few countries would be eligible for such aid if the bar is placed as high as the Honourable Senator Bolduc is proposing.

Clearly, decisions concerning legislation on CIDA must be made in the context of a general policy review. The Weingard committee had recommended such legislation in 1997, as did the Standing Senate Committee on Foreign Affairs.

The Canadian International Development Agency, established by order in council in 1968, has the necessary flexibility to respond effectively to Canada's priorities with regard to foreign policy and the needs of people in developing countries. CIDA already operates like a department with regard to the Financial Administration Act.

To date, governments have preferred to provide CIDA with a mandate based on policy rather than legislation, in large part because of the difficulty of defining a clear and concise mandate that includes the many objectives and tasks of an aid organization.

Honourable senators, if we are to pass such legislation, it must be well thought out or we risk harming the intended beneficiaries, in other words the less fortunate of the world.

I strongly advise honourable senators to resist the temptation to apply such a rigid solution to the numerous and complex problems that are involved in development cooperation, but in the same breath I recognize that Senator Bolduc is being true to the principles behind his action in that he would like to see policies that reflect fundamental Canadian values.

All that I ask of the honourable senator is to agree that in the highly complex field of development, a rigid legislative framework can, to a large extent, result in situations where we would be imposing constraints that we do not want to impose on the beneficiaries.

In conclusion, honourable senators, I would like to thank Senator Bolduc, who, through his initiative, has shown to what extent this issue of international development should be a priority of the Parliament of Canada.

[English]

Some Hon. Senators: Question.

Hon. Douglas Roche: Honourable senators, I congratulate Senator De Bané on his intervention, which showed sensitivity to the needs of developing countries that CIDA is trying to reach into. He expressed a hesitation about whether CIDA should undergo a legislative process that would give it the structure that would be contained in the bill. However, I did not catch whether he would be entirely opposed to it. Would the Honourable Senator De Bané favour referring the bill to committee for a thorough discussion of its merits and its proposal to enhance CIDA to ensure that the formulation of the CIDA mandate meets current needs?

Senator De Bané: Honourable senators, I thank Honourable Senator Roche for his observation and suggestion. Of course, if the bill passes second reading, it would then be referred to committee.

On motion of Senator Corbin, debate adjourned.

[Senator De Bané]

• (2040)

QUESTION OF PRIVILEGE

Hon. Lowell Murray: Honourable senators will have received written notice of this question of privilege, which is the untenable position of an officer of Parliament, namely Privacy Commissioner George Radwanski, of the employees of that office, and of Parliament itself due to the failure of the government to accept its responsibility and take timely parliamentary initiative to deal with accusations made against Mr. Radwanski by a committee of the House of Commons.

Honourable senators, I have always been quite scornful of politicians who feel the need to be heard on every subject that comes before Parliament. Long observation and experience have told me that the easiest way to lose the ear of your colleagues is to pop up on every item on the agenda, whether at caucus or in the chamber. I assure honourable senators that it is only the luck of the draw that causes me to rise now for the third time tonight. There is no end to it. If Senator Day opens debate on second reading on the appropriations bill tomorrow, I will speak then also. That will be my last hurrah for a while, I hope.

On this question of privilege, let me state for the record and by way of background that Mr. George Radwanski was appointed interim Privacy Commissioner by Order in Council on September 1, 2000. On September 29 of that year, the House of Commons approved, by a vote of 182 to 74, a government motion to appoint him as Privacy Commissioner. On October 16, he appeared before Senate Committee of the Whole, and on October 17, we approved, by a vote of 49 to 7, a government motion to appoint him as Privacy Commissioner. On October 19, his seven-year term in that position officially began.

Mr. George Radwanski is not a particular friend of mine, nor even an acquaintance. I knew of his political and professional background at the time of his appointment, but I know him only as a witness in this place and in our various committees.

So far as his conduct as Privacy Commissioner is concerned, I have only his public utterances on privacy issues to go by. On that basis and that basis alone, I would say, if I were asked, that he has done a good job and that he has done the job for which Parliament appointed him.

However, other issues have arisen: administrative and financial issues pertaining to him and his office, issues pertaining to his relationship with one of the Houses of Parliament, the House of Commons and, in particular, with their Standing Committee on Government Operations and Estimates.

Without going into these issues in detail, that House of Commons committee canvassed them for a while with Mr. Radwanski as a witness on June 9 last. Prior to that, there were also issues relating to his attendance or, more particularly, his absence at the committee when that committee was considering the estimates of his office. On May 29, when the committee reported on the estimates of the Privacy Commissioner, they reduced his estimates by the nominal sum of \$1,000 as a way of showing their displeasure with him and with his conduct.

Significantly, when the government moved the motion of concurrence on the estimates in the house, they did not restore that \$1,000 to the estimates. At the same time, when the Transport Committee had brought in a reduction of \$9 million in the estimate of Via Rail, and the government moved to show its disagreement with the committee by restoring the \$9 million. I take it that the government, in not restoring the \$1,000 to Mr. Radwanski's budget, was somehow signalling their agreement with the committee's displeasure with regard to Mr. Radwanski.

On June 9, the committee had Mr. Radwanski before it as a witness. I have read the transcript a couple of times. There was the question of the deletion of a paragraph of a letter that Mr. Radwanski had sent to Morris Rosenberg, the Deputy Minister of Justice. A copy of that letter was sent to the committee and a paragraph was deleted. Mr. Radwanski explained this as being an administrative snafu that had occurred by reason of his trying to give instructions by telephone to his staff while he was on the road.

The committee seemed to believe that there was a deliberate attempt to mislead them and decided to pursue the matter. The committee held two in camera meetings last week, on June 11 and 12. There was no transcript released of the in camera meetings, and the minutes do not indicate who the witnesses were. However, the very next day, on Friday, June 13, the committee tabled what it called an interim report. The report indicates that the committee had heard in camera from officials from the Privacy Commissioner's office and from officials of the Information Commissioner. I believe Mr. Radwanski was also heard, but it is not clear to me whether he was present when the others testified. It is not clear either from the media reports, which have become quite extensive on this matter, or from looking at the minutes.

The committee stated that some of the officials from the Office of the Privacy Commissioner believed that, indirectly or directly, they had been threatened if they came forward with information, and the committee asked the Public Service Commission to look into this. The committee also expressed concern about financial practices at the Privacy Commissioner's office, and they asked the Auditor General to look into that. Further, the committee stated that the commissioner, Mr. Radwanski, had misled them several times. The bottom line of the whole report is that the committee unanimously expressed its lack of confidence in Mr. Radwanski.

As the committee itself acknowledged in its report, these are grave issues. What happened? This is where I think we have a serious concern in this place and a question of privilege affecting this institution and all of Parliament.

• (2050)

The committee tabled the report, whereupon the government sent the House of Commons home. Gone. Adjourned until September. They did not debate the report. They did not come to any determination on these grave issues. They simply left it on the table, walked away and went home. I think that is irresponsible. I really do.

The committee said that its interim report, the one tabled the other day, would be followed "by a more detailed final report elaborating on the evidence that has led the committee to the above conclusions." Therefore, the committee has scheduled a meeting for tomorrow, Tuesday, in camera, as I understand it, and from that meeting, I presume, a final report elaborating on the evidence that led committee members to the conclusions in the interim report will be presented. It will be a final report to the House of Commons, but who will be there to receive it? Nobody. Who will be there to debate it? Nobody. Who will be there to reach a determination on the grave issues that the committee alludes to and refers to? Nobody will be there. The clerk, one assumes, will receive the report.

Meanwhile, even a cursory examination of the media over the weekend and today leads one inescapably to the conclusion that the juicier tidbits from the in camera meeting are being leaked. Deservedly or not, serious harm is being done to an individual's reputation. More than that, an officer of Parliament is wounded. His ability to function is impaired, and that has to concern us all. Whatever the facts may turn out to be, nobody — I do not care who he is, or what he is accused of — deserves to be treated like that.

Some Hon. Senators: Hear, hear!

Senator Murray: When all the facts are in and judgment is made, if a sanction — perhaps, the ultimate sanction that we have — has to be applied to the commissioner of privacy, that sanction will lack credibility and legitimacy if due process has not been observed and if the principles of natural justice have not been applied. I think that is what is happening here. I do not have any defence to offer Mr. Radwanski. How could I? I do not know the facts.

What I do know is that, as matters now stand, the commissioner is in limbo. An officer of Parliament is in limbo. He is about to be under investigation by the Public Service Commission and the Auditor General, and meanwhile, a committee of the House of Commons thinks it knows enough to have unanimously voted no confidence.

His position is untenable. Parliament's position is untenable. The House of Commons is gone until the fall.

Perhaps it was this very day that Mr. Speaker of the Senate and Mr. Speaker of the House of Commons received a report to Parliament from Mr. Radwanski concerning substantially similar provincial legislation. This has to do with a bill we passed here a couple of years ago, the Personal Information Protection and Electronic Documents Act. In a nutshell, this act that we passed is applicable in the federal jurisdiction as matters now stand, but it will be applicable, notwithstanding jurisdictional problems, in any province that has not passed substantially similar privacy legislation by January 1, 2004. Thus far, Mr. Radwanski and the Minister of Industry, who is responsible for this, found that Quebec has legislation that is substantially similar. Alberta and British Columbia have passed legislation, but Mr. Radwanski says their legislation is not substantially similar. He concludes in his report to the Speakers:

As I stated in my first Report to Parliament regarding substantially similar legislation in May 2002, I consider it appropriate to defer commenting on sector-specific provincial legislation until it becomes more clear which provinces are likely to have comprehensive private sector legislation in place by January 1, 2004. I accordingly anticipate addressing the matter of substantially similar sector-specific provincial legislation in a further Report to Parliament in the autumn of this year.

This is a man in whom a committee of the House of Commons has just announced it has no confidence, a man who can only be wounded and impaired in conducting his office, telling us that he will be bringing in a report in the autumn on an extremely important piece of legislation, on an extremely important federal-provincial issue, as it happens.

What about the public? What about Canadians who seek to have him and his office adjudicate privacy issues in the meantime? Can they have confidence in that office? Notwithstanding all those circumstances, which I have just related to you, Mr. Radwanski is still in office, still adjudicating cases, spending money, administering a staff in that condition.

I do not think that we can let that cloud remain there. I think we have to do something to dissipate it. In my opinion, the government should not have sent the House of Commons home. They should not have agreed to go home. In my opinion, the government should recall the House of Commons now to deal with this interim report and with the final report and come to a determination.

If not, what is the duty of the Senate? Mr. Radwanski is an officer of this house as well as their House. He is an officer of Parliament. I considered suggesting that we send a message to the House of Commons, but there is nobody home. I thought of asking for a conference, but where are all the conferees — on the golf course, instead of in the House of Commons doing their duty in the face of this serious report, which was placed on the table and from which they walked away on Friday afternoon for their summer holidays. They vanished — a vanishing act.

There are three investigations, apparently, already underway, by the committee, the Auditor General and the Public Service Commission. I do not think we need a fourth by the Senate. Should we give the Privacy Commissioner an opportunity to state his case? Should we not accept our responsibility and have him come before us in Committee of the Whole?

As far as the dignity of Parliament is concerned and as far as our rights, our reputation and the status of one of our officers are concerned, we cannot allow matters to stand where they are.

I want to close with one quotation from Erskine May, page 155, nineteenth edition:

Both Houses will treat as breaches of their privileges, not only acts directly tending to obstruct their officers in the

execution of their duty, but also any conduct which may tend to deter them from doing their duty in the future.

Honourable senators, what has happened is a serious impairment of the Office of the Privacy Commissioner. If Your Honour finds that there is a *prima facie* case, I will move that we call Mr. Radwanski before our Committee of the Whole.

Hon. Anne C. Cools: Honourable senators, Mr. Radwanski is a government appointee. The government should be the first to respond to Senator Murray.

• (2100)

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, today Senator Murray has raised an extremely serious issue. I do know George Radwanski. I do not know him well, but I do know him enough that I would say, "Hello George," and he would say, "Hello, Sharon."

What has happened here is a strange set of circumstances. The committee in the other place — and I do emphasize, "committee in the other place," and not the government — apparently heard from a number of witnesses, including Mr. Radwanski. As Senator Murray has indicated, that committee tabled an interim report. I understand that they will table a final report later this week.

The committee of the other place has been empowered under their rules, by the way, to do just that, even though the House is no longer sitting. By unanimous consent, it was ordered that at any time the House stands adjourned during June, July, August and September, 2003, and the Standing Committee on Government Operations and Estimates has ready a report, when that report is deposited with the Clerk it shall be deemed to have been duly presented to the House. However, whether it is tabled this week or whether it is tabled next week, there is, as Senator Murray has identified, a considerable time lag, presumably, before the House would then take this report into consideration. This obviously puts Mr. Radwanski into a clearly difficult if not, as Senator Murray has described it, an untenable position.

Honourable senators, what must be considered, however, are our responsibilities here in this chamber. One of the difficulties is that I do not think we would brook any interference if we made a judgment on an issue and then the House of Commons presumed to tell us what to do about that issue. That does cause me some concern. The two Houses work quite independently from one another. What we are doing is using a question of privilege to call into question the proceedings in the other place. That, I must say, does cause me considerable discomfort.

On the other hand, what has happened to a Canadian who is an officer of both these chambers, whether he is at fault or not at fault, also causes me serious discomfort. Therefore I find myself between two discomfort levels, if you will.

We are in a position where we must give advice to the Speaker on whether this is a question of privilege. I must say, in balance, I do not think that any of our privileges have been infringed upon. Whether an officer of Parliament's privileges have been infringed

upon, I do not know that we quite know that yet, since we, unfortunately, have no access to the information. The committee was held in camera, and maybe we will have a better opportunity to know when we have seen their final report, but we do not know at this point.

As a chamber, I do not know what exactly we can do. It seems to me that we have a situation in which, at some point, if the other place adopts their report and makes a substantive motion with respect to Mr. Radwanski, then clearly we would then be asked to make either a similar or a different approach to this individual. At that point we would have to hear from him, and presumably have to hear from other witnesses as well, in order to get to the bottom of the matter.

Honourable senators, I am not sure whether we have a question of privilege. I do not believe the judgment of His Honour in this matter will be easy.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, the crux of the matter as to whether or not the privileges of this house have been breached turn very much in part on the citation that Senator Murray has drawn our attention to from Erskine May's 19th Edition. I will just repeat it, at page 155, Your Honour, where it says:

Both Houses will treat as breaches of their privileges, not only acts directly tending to obstruct their officers in the execution of their duty, but also any conduct which may tend to deter them from doing their duty in the future.

The issue, the way I see it, is that as a member of this honourable house, a house to which the Privacy Commissioner reports, and in a sense with hindsight, I regret that I did not pursue a motion that I had brought forward here a while back that we would call the Privacy Commissioner, our officer, to come to Committee of the Whole so that we could discuss his last report. As honourable senators will recall, that was on our Order Paper for 15 days and fell off. I accept responsibility in part for not pursuing that. I was not overly encouraged by the government side to pursue it, mind you, and now that is water under the bridge. However, it does raise the point of the seriousness with which we ought to be taking the reports of those who serve as our officers of Parliament, of whom the Privacy Commissioner is one.

Let me turn to honourable senators who have spoken so far on this question of privilege as to their knowledge of Mr. Radwanski. I know Mr. Radwanski from his work as the Privacy Commissioner. I do not know him socially. However, I have been extremely impressed by his work as Privacy Commissioner. I have sat in public audiences where the Privacy Commissioner has spoken to Canadians outside of Ottawa, at universities and other places, on issues of privacy that affect Canadians. I have always been immensely impressed with his pioneering work and his leadership work in protecting our privacy as Canadians. As far as his work as the Privacy Commissioner is concerned, I have always been very proud that

he was our officer in Parliament, protecting the privacy rights of Canadians.

What happened in the other place, particularly last Friday, when the Standing Committee on Government Operations and Estimates issued their fourth report that provided their statement of findings concerning the Privacy Commissioner, the committee in the other place stated that the Privacy Commissioner had misled their committee with respect to:

(a) the circumstances under which the Office provided a copy of a letter from which one of the original paragraphs had been deleted; (b) a set of expense reports whose incompleteness was not acknowledged in the cover letter; (c) travel expense forms on which there had been an attempt to conceal, by the application of white-out material, certain information; and (d) the reasons for his failure to appear in person at a hearing of the Commission's main estimates.

The report was presented and is now public knowledge. That is how I know about the report, and I believe that is how all honourable senators know about the report. It makes the statement that:

...members of the committee...

Meaning the House committee.

...are in unanimous agreement that they have lost confidence in the Commissioner.

What they do in the other place is their affair. However, what anyone does, including the honourable members in the other place, which affects the privileges of this place and the officers of this place, then it speaks directly to the privileges of this place. That is all I can say.

• (2110)

Honourable senators, the House of Commons, as Senator Murray indicated, and as we all know, not only dropped their report which placed this terrible cloud over our officer, but they went home. We have heard that, yes, under their procedures, a subsequent report may be tabled. However, we know that the House is still adjourned and, unless and until it returns, this is a committee report that the members of the other place have not debated.

It is much like our own committee reports that are issued. Although not having been adopted by the Senate, the world reads such reports and say, "Oh, this is the Senate committee studying such and such a matter. This is what the Senate believes," when the Senate has very often not had a final adjudication on a report that comes from one of our committees.

The question is a fair question to be asked that when the House of Commons considers their committee report, is the House of Commons intending to send a message to the Senate about their views on the Privacy Commissioner? No one knows what will happen, or when it will happen.

In the meantime, the integrity of an officer of this house, as one of the two chambers of Parliament, is under question. As such, the cloud hangs over all of Parliament.

Honourable senators, I call your attention to section 53(1) of the Privacy Act, which states:

The Governor in Council...appoint a Privacy Commissioner after approval of the appointment by resolution of the Senate and House of Commons.

The House of Commons divided on the resolution appointing the current Privacy Commissioner on October 4, 2000. In the Senate, our approval was given on October 17, 2000, as Senator Murray has informed us.

The Privacy Act states further:

...the Privacy Commissioner holds office during good behaviour for a term of seven years, but may be removed by the Governor in Council at any time on address of the Senate and House of Commons.

Honourable senators, the independence and the tenure of the Privacy Commissioner, like ombudsmen in other jurisdictions, is secured by the House. A term of seven years is common, and removal can come about only with an enriched majority of a house. Most often, in legislation concerning ombudsmen across the country, it takes a two-thirds vote in an assembly to dismiss an officer of the house. In this case, it is a resolution of the Senate and the House of Commons.

Why is that mechanism in place? It is there so that officers of Parliament, like the Auditor General or the Privacy Commissioner, are able to do work which is delicate, which protects the citizens, the minority, very often against the awesome power of the majority or the awesome power of the state. These officers need that special protection. They need to be especially afforded a wide berth, I submit, when they become the subject of an attack.

From my point of view, one would have to have enriched proof that somehow an officer holding this kind of role has done something that meets the definition of not good behaviour. This is the protection that is built into the act. This is the protection that we need in order for officers of Parliament, such as a privacy commissioner, to be able to do their work in protecting the privacy of Canadians.

Honourable senators, the fourth report of the House of Commons Standing Committee on Government Operations and Estimates has called into question the behaviour of the Privacy Commissioner. This is now public knowledge across Canada. It is clearly a serious matter, as the Leader of the Government has just told us, and one that should be considered immediately, and I believe considered immediately by this House of Parliament. The fact that a committee of one of the Houses of Parliament has stated that they no longer have confidence in the Privacy Commissioner calls into question the ability of this officer of Parliament to perform his duties in the future.

As honourable senators know, the Privacy Commissioner is an advocate for the privacy rights of Canadians. He can investigate complaints about privacy violations in the public and now, under the Personal Information Protection and Electronic Documents Act, federally-regulated private sector businesses. The Privacy Commissioner is also assessing provincial efforts, as Senator Murray has told us, to enact legislation that is substantially similar to the Personal Information Protection and Electronic Documents Act.

I call the attention of honourable senators to our own *Rules of the Senate*, in particular rule 43(1), which states:

The preservation of the privileges of the Senate is the duty of every Senator....a putative question of privilege must meet certain tests.

Rule 43(1)(c) states that it:

be raised to seek a genuine remedy, which is in the Senate's power to provide, and for which no other parliamentary process is reasonably available;

Senator Murray has made the suggestion that should the Speaker find a *prima facie* case of privilege, his solution might well be a motion to the effect that the Privacy Commissioner be called before a Senate Committee of the Whole. I argue that this would be very much in the spirit and would fulfil the criteria of rule 43(1)(c) which would enable the Senate to hear the views of the Privacy Commissioner in an open and transparent manner, and provide a genuine remedy for the cloud that is now over this officer of our Parliament.

In conclusion, honourable senators, it is important that this matter be cleared, post-haste. Speaker Milliken from the other place stated on May 28, 2001:

A small number of individuals have the special distinction of being officers of parliament. So great is the importance which parliament attaches to the responsibilities entrusted to these individuals that they are appointed by resolution of parliament rather than by Governor in Council.

Because of the special relationship that exists between these officials and —

— the two Houses. The Speaker referred only to the House of Commons.

any actions which affect them or their ability to carry out their work are watched with particular attention by members.

Senator Cools: Honourable senators, I should like to contribute to this discussion. I would like to begin by saying that Mr. Radwanski is no friend of mine. I would also like to say that I am not a defender of Mr. Radwanski, neither personally nor politically. However, I am a defender of the people with whom he is working to the extent that many Canadians are appealing to him as the Privacy Commissioner because his role is continuing.

Honourable senators, we can make no mistake about this. Serious harm, if not irreparable harm, is being done to him personally and to his reputation but, more important, to his ability to function and to carry on in his position as Privacy Commissioner. I am speaking about him carrying on in his duties, both statutory duties and those given to him by virtue of the appointment itself.

• (2120)

Senator Kinsella has laid out the statutory basis upon which the Senate has an interest. First, section 53(2) of the Privacy Act states that the commissioner holds office during good behaviour, to be removed on address of both the Senate and the House of Commons. We must understand that those words come from section 99(1) of our BNA Act, 1867. Those words refer to the removal of judges, which words, in turn, were taken from the Act of Settlement of 1701. The reason for the words "during good behaviour" was that superintendence over judges and individuals like this was assigned to Parliament because Parliament always had a reason to be cautious, fearful and vigilant. Parliament always has to fear favour between these people and government or, on the contrary, disfavour between government and these people. In other words, in the old days you would have said between these people and the King. That is why the superintendence was assigned to the Act of Settlement of 1701.

Honourable senators, we must understand that this is not only a question of Senate privileges but also a question of the Senate's powers, rights and duties as the upper chamber.

We have here a most interesting phenomenon. In the fourth report of the House of Commons committee we see hefty and serious allegations. The report talks about misleading the committee and about absolute honesty. What is occurring in that report, honourable senators, is the language of pursuing an individual to destruction. This is the language that is a preface to pursuits to destruction.

From what I have read in the newspapers, it would appear that Mr. Radwanski has many enemies. However, he still has an entitlement to due process. As members of Parliament, it is our duty to ensure that parliamentary due process is followed because it is sound and in keeping with the principles of Parliament.

It is interesting to note with regard to these allegations that they are criminative in essence and in substance. I should like to put on the record a statement from *Parliamentary Government in England*, the book of the great master Alpheus Todd, upon whom I rely.

Honourable senators, there are grand traditions about the use of criminative charges in Parliament, and there are lengthy rules, systems and practices that go back to the time of impeachments.

I, too, have been bothered that, this matter having just arisen, the House of Commons has adjourned. This matter is so compelling that it deserves attention. Under the system of parliamentary governance, when a charge is made, one must take responsibility for it and be prepared to stand by it.

I should like to read from Alpheus Todd as follows:

And it is the invariable practice of Parliament never to entertain criminative charges against anyone except upon the ground of some distinct and definite basis. The charges preferred should be submitted to the consideration of the House in writing, whether it be intended to proceed by impeachment, by address for removal from office, or by committee, to inquire into the alleged misconduct, in order to afford full and sufficient opportunity for the person complained of to meet the accusations against him.

There is no principle in our system that is older, better established, better known and better accepted than the principle that any person must be afforded full and sufficient opportunity to meet accusations. That is such a sound principle of the *lex parliamenti* and the common law. This whole situation has burst into the newspapers to haunt, if not to embarrass.

Honourable senators, there is a host of questions at issue in this matter in addition to Parliament's right to financial accountability and so forth. It would take many hours to tease them all out.

Honourable senators, we have a role and a duty in this matter. Senator Kinsella made those points. Senator Carstairs suggested that there is not a question of privilege here and that His Honour Senator Hays will have a difficult problem. I submit that there is a question of privilege here but that the proper adjudication is not for Senator Hays.

We used to have an alternative when we had the old Committee of Privileges. That was a far better system because under it senators spoke to senators and senators came to conclusions.

Senator Hays should consider removing himself as the adjudicator in this instance. The most recent report from the Privacy Commissioner of Canada, Mr. Radwanski, submitted only days ago, says "June 2003" and is addressed to the Honourable Daniel Hays, the Speaker of the Senate of Canada.

In the Privacy Act, we see that that is also a statutory requirement. Section 40 of the act states:

Every report to Parliament made by the Privacy Commissioner under section 38 or 39 shall be made by being transmitted to the Speaker of the Senate and to the Speaker of the House of Commons...

Obviously, the Speaker of the Senate is the mechanism by which the Privacy Commissioner speaks to us, so it may be said that in this chamber the Speaker is the voice of the commissioner.

Honourable senators, this is something to which I have given some thought. This issue will continue to build in the media, essentially because Mr. Radwanski was a media man himself. The media will continue to have much interest because it is such a huge media event. The thing has become a spectacle.

As we know, the Privacy Act stipulates that the appointment by the Governor in Council — although really by Her Majesty — takes place following resolutions of both chambers, as distinct from addresses. The sections about removal use the word “addresses” of both chambers. As we know, addresses are addresses to Her Majesty or, in Canada, to the Governor General.

The Privacy Act also states that the Governor in Council may appoint a Privacy Commissioner after approval of resolutions in both the Senate and the House of Commons, so they are quite different.

• (2130)

My point is that in 2000, on October 5, the resolution in this chamber to approve the appointment of Mr. George Radwanski was moved by Senator Dan Hays, who was then the Deputy Leader of the Government. The resolution reads:

Hon. Dan Hays (Deputy Leader of the Government),
pursuant to notice of October 4, 2000, moved:

That, in accordance with section 53 of the *Privacy Act*, Chapter P-21 of the Revised Statutes of Canada 1985, the Senate approve the appointment of George Radwanski as Privacy Commissioner.

In his remarks, Senator Dan Hays said:

I am pleased to seek the support of honourable senators today to approve a motion for the appointment of Mr. George Radwanski as Canada's next Privacy Commissioner.

The rest of the speech is essentially an appeal to senators to support that motion, that resolution, for the approval.

Interestingly enough, Senator Hays alludes to what I said a few moments ago about the superintendence of Parliament over these high positions being a response for concern of independence from the executive — not from Parliament but from the Crown. As you know, there was always a problem of judges or higher officers of state seeking favour or getting disfavour from the king. Senator Hays said the following, which confirms what I said earlier:

Because of the need for independence from the government, the Privacy Commissioner is an independent officer of Parliament and is appointed by and accountable to Parliament. The Privacy Commissioner acts as an ombudsperson on behalf of all Canadians who may have complaints or wish to obtain information about the government's handling of their personal information.

I would submit, honourable senators, that we are placing Senator Hays in a very difficult and, I would even submit, unfair position because Senator Hays, after all, was Deputy Leader of the Government at the time and utilized party discipline to obtain results on a particular resolution. I do not think it is fair to

Senator Hays, quite frankly, that he should adjudicate this question.

The question before us is a small point in all these larger points. It is, essentially, whether or not there is a *prima facie* finding. I would suggest to honourable senators, and to Speaker Hays in particular, that Speaker Hays should best excuse himself from adjudicating this matter and throw the question to the Senate as a whole, where it rightfully belongs. I say that in all sincerity. This matter is a very difficult matter, and I would also say, daily becoming a very unpleasant matter.

Honourable senators, I have much material on these kinds of questions. I have made it my business to read about them. What we are dealing with here is essentially what Senator Murray stated in his notice of question of privilege — the untenable position of an officer of Parliament, namely, the Privacy Commissioner, George Radwanski, the employees of that office and Parliament itself, due to the failure of the government to accept its responsibility and take a timely parliamentary initiative to deal with accusations made against Mr. Radwanski by a committee of the House of Commons.

The House of Commons still has the duty to hear this matter judiciously. Remember, we are the high court of Parliament. The House of Commons has a duty, but whatever reasons they have, they have adjourned, and it is not for me to inquire into them. However, I would follow up by saying that the Senate has an equal duty — not a greater duty, not a smaller duty, not a lesser duty, but an equal duty — to make sure that Mr. Radwanski can meet the accusations and be heard.

I would like to leave that with honourable senators. Honourable senators, one may recall many years ago the case of Mr. Justice Leo Landreville. I can tell you that that was not a great moment in the lives of the then-Minister of Justice or the then-Prime Minister. We remember how that went on for years after it had left Parliament.

I say to honourable senators, do take an interest in what is going on, regardless of one's personal likes or dislikes. In other words, set aside affections or disaffections for the individual, Mr. Radwanski. This individual right now is a creature that we call an officer of Parliament. I would also submit to you that perhaps, as part of this process, we could discover what the term “officer of Parliament” really means, because from what I have been able to discover it is a word that is bandied about, but we do not really know what it means.

I ask honourable senators to take a profound interest in this matter and make sure somehow that due process is followed and that the most ancient privilege and rule of governance is followed — that a person is allowed to answer accusations.

Hon. A. Raynell Andreychuk: Honourable senators, I want to support Senator Murray. I do not want to add to what he has already stated. I do not wish to get into whether the allegations made against Mr. Radwanski are correct or not. We simply do not have enough information before us.

However, the question of privilege goes to our capacity to function as a legislative body. It would seem to me that we have received conflicting signals from the House of Commons. On the one hand, it has indicated that there is a serious allegation that it will be dealing with next week. On the other hand, the House of Commons has adjourned until September 15. I believe that, as a legislative body responsible for the Privacy Commissioner, we have to act in a timely manner. Getting mixed signals from the House — that it is urgent, on the one hand, but on the other hand, it can wait until September — puts us in a position where we cannot function in a timely manner, and that our legislative function and capacity are being impaired.

In one respect, we do not want to usurp the role of the House of Commons, but we have a responsibility, as has been pointed out — and an equal responsibility — for the commissioner. We did not act on his report. It would appear that the House has acted with some regard to issues surrounding the commissioner.

Because of the mixed signals, are we to wait here at the pleasure of the House for the next two to three weeks, to see what the final report states? If we adjourn, we are giving the public the same message — that we are unconcerned. I do not think we can do that. If we conduct a separate and independent inquiry here, we are in the conundrum of perhaps coming up with less information or different information than is in the exclusive domain of the House, particularly on financial issues.

I believe we have a question of privilege here because it will be difficult for us to function, as Senator Carstairs pointed out. What do we do? That is where the conundrum comes. That is what Your Honour must rule on: whether it was those actions of the House that raised the question of privilege.

Hon. Joan Fraser: Honourable senators, I will try to be brief, the hour being very late. I am quite concerned about what is happening here this evening.

Let me say first that I believe, without reservation, that the Speaker of the Senate is the appropriate person to rule on questions of privilege, and that our present Speaker is eminently qualified to do so. We are, after all, talking about a question of privilege. We are not talking about Mr. Radwanski.

• (2140)

I have been acquainted with Mr. Radwanski for close to 40 years. When he was appointed, I said that I thought he would be a fine commissioner of privacy. However, even I have been struck by the vigour with which he has pursued his mandate, although that is not the point. The point is that tonight we are purporting to stand in judgment on the conduct of the other place. Let us think about what that committee has done and done unanimously. That committee, rightly or wrongly, has concluded that, if you will, its privileges — the House of Commons' privileges — have been breached by Mr. Radwanski. I do not know whether the House is right in that conclusion but when members concluded that they had been misled by their officer — because he is just as much their officer as he is our officer — then it becomes a serious matter for them to deal with. We may all deeply regret the way in which this case is unfolding. It is, to say the least, deeply unfortunate that the House of Commons has

risen for the summer recess. Nonetheless, it is, in its fashion and as it deems appropriate, attending to its business.

If and when the matter reaches the Senate, we will attend to our business. In the same way that we would be grossly offended if the House were to rule on the Senate's conduct, affecting senators' privileges, I think it is wrong for the Senate to rule on what the House of Commons clearly views as a serious breach of its parliamentary officer's duty to the House. At this time, I do not think that is a question of privilege, at all.

Some Hon. Senators: Order.

Hon. Serge Joyal: Honourable senators, this is probably one of the most difficult decisions we have been called to reflect upon and to contribute to.

The first aspect that makes me uncomfortable is that we have not received a message from the other place asking us to concur in a specific course of action. We have learned about this issue through the media. Officially, the Senate has not been informed.

On the other hand, as Senator Murray and Senator Kinsella have stated, bribes of information have fallen from the basket. Personally, I am always reluctant to embark on what I call a fishing expedition. There is so much political assassination in political life that it is easy to come to conclusions quickly and expeditiously by cultivating the seeds of doubt. When we address the matter of parliamentary privilege, we must take a stand because the privilege of one is the privilege of all. The Privacy Commissioner protects the privacy of citizens and the privacy of senators.

When we call upon the privileges of this place, our privileges are not absolute. They must be reconciled with the Charter of Rights and Freedoms. The Supreme Court has stated repeatedly that even though we claim privilege, that cannot trump the Charter and the Charter does not trump privilege. Each must be reconciled. In this case, to call upon the Privacy Commissioner on the basis of allegations in the media, and the history that surrounds the media, to come to the bar and be questioned by each and every honourable senator does not make me feel at all comfortable.

I voted to charge Mr. Radwanski with the fundamental responsibility of protecting Canadians' privacy rights and my rights to remain private in relation to government administration. If someone is entrusted with our confidence by a vote, then I would not like to see that person in this chamber being questioned by all honourable senators. I do not think that would be a show of respect for the principle of fundamental justice. The Senate deals with the privileges of an individual senator.

Honourable senators will recall that when the issue arose some years ago, a committee was asked to study the issue and report back to the house. The report that was presented prompted the house to act. However, how would it have felt to call upon a senator to appear before the Senate to explain and answer to charges that originated in the media — a media that magnified the issue and led us to believe that there were many other secrets, juicy or not, that the public wished to have aired in a public forum? It would not do great service to Canadians to be involved publicly in such an initiative.

His Honour's ruling must maintain, as the Supreme Court has stated, the dignity and integrity of the institution, which are also part of the privileges of the Senate. Again, as much as the motion of the Honourable Senator Murray seeks to maintain the confidence and trust of Canadians in the Privacy Commissioner, this house must proceed with the utmost respect of the obligation to maintain the rights and freedoms of the person charged with the highest responsibility to protect the rights and freedoms of individual Canadians.

Hon. Lorna Milne: Honourable senators, I want to speak briefly in support of Senator Fraser and Senator Joyal. Section 53 of the Privacy Act states:

53(1) The Governor in Council shall, by commission under the Great Seal, appoint a Privacy Commissioner after approval of the appointment by resolution of the Senate and House of Commons.

(2) Subject to this section, the Privacy Commissioner holds office during good behaviour for a term of seven years, but may be removed by the Governor in Council at any time on address of the Senate and House of Commons.

The Senate has not been asked for such an address. There has been no evidence placed before us whatsoever, except that which we read in the newspapers, of such an address. I do not believe that, at this time, it is the job of this chamber to question how the House of Commons considers the exercise of its authority under an act of Parliament.

I point out that, apparently, this was a unanimous decision in committee in the other place. I say "apparently" because we simply do not know for certain. The interim report was apparently tabled in the other place, but we do not know for certain and no opposition voices were raised against it in the other place.

Senator Murray: There was no debate.

• (2150)

Senator Milne: I understand that, some years ago, there was in this place a committee called the Committee of Privileges, which was a form of Committee of the Whole that would have, had the occasion been proper, looked into something like this. If the motion or the address had been brought to the attention of the Senate chamber, that committee would have addressed it. That committee was abolished in the interests of trying to reduce delays within this chamber. I think, Your Honour, that you have no choice but to rule that this is not a question of privilege, and that it is not something that should be properly before this house at this time.

The Hon. the Speaker: Honourable senators, I have heard from everyone once, and I know some senators would like a second round. However, as I pointed out in the past, the presiding officer, under our rules, must call an end to the interventions, and I have decided to do so with the advice I have received from honourable senators at this point.

This is a matter on which I must spend some time, including not only the issue raised by Senator Murray but also some others that

have been raised by other senators. I will do so and bring back a decision on whether or not there is a *prima facie* case, as soon as I can.

Senator Cools: Honourable senators, I rise on a point of order. Since, Your Honour, you have decided that you have heard enough, I would like to point out for the instruction of the Senate as a whole that Senator Fraser said that the Commons committee made a finding of breach of privilege. Honourable senators, no such thing happened. The committee report does not make such a finding because no committee of Parliament can make such a finding of —

Some Hon. Senators: Order.

The Hon. the Speaker: Honourable senator, it sounds like you are returning to the question of privilege.

Senator Cools: Not at all, Your Honour. I was merely clarifying a piece of misinformation.

Some Hon. Senators: Order.

The Hon. the Speaker: Honourable senators, on these matters, the role of the presiding officer is to consider all of the interventions that have been made. I think I have observed previously that it is not helpful, to do the job that I have been left with under the rules, to have debate between honourable senators on something said or not said.

The way in which we normally proceed in these matters, and the way in which I wish to proceed here is that we hear from honourable senators and they give their views, but in terms of an exchange back and forth, I wish that to be limited to the greatest degree possible.

As I said, I have heard all of the arguments that I think I need to hear, and I will come back to you at the earliest opportunity with the decision that you have requested of me.

[Translation]

FISHERIES AND OCEANS

COMMITTEE AUTHORIZED TO STUDY QUOTA ALLOCATIONS AND BENEFITS TO NUNAVUT AND NUNAVIK FISHERMEN

Hon. Gerald J. Comeau, pursuant to notice of June 11, 2003, moved:

That the Senate Standing Committee on Fisheries and Oceans be authorized to examine and report upon the matters relating to quota allocations and benefits to Nunavut and Nunavik fishermen; and

That the Committee table its final report no later than March 31, 2004.

Motion agreed to.

The Senate adjourned until tomorrow at 2 p.m.

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(HANSARD)

Tuesday, June 17, 2003

—
THE HONOURABLE DAN HAYS
SPEAKER



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THE SENATE

Tuesday, June 17, 2003

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

THE LATE ELAINE HARRISON

TRIBUTE

Hon. Catherine S. Callbeck: Honourable senators, yesterday, Prince Edward Island suffered a great loss with the passing of Elaine Harrison, a beloved Island teacher, artist and environmentalist. Originally born in Nova Scotia, Elaine moved to Prince Edward Island in 1933, where she spent many years teaching English and Latin. She was a remarkable individual who loved her students and had a tremendous impact on their lives. She was very unconventional and always taught students to think outside the box. As one former student said, "education to Elaine was not a means to an end; it was a way of being and relating to the world."

Elaine was also a painter, poet and very passionate person. She cared deeply about nature, the environment and animals. She was an active member of the P.E.I. Arts Society and the Great George Street Gallery. Elaine's passion for life will live on through her paintings. They show her powerful personality and speak to you through their vivid colours.

Elaine received many honours during her lifetime, including an honorary degree from the University of Prince Edward Island and a Council of the Arts award for distinguished contribution to the literary arts, as well as having a scholarship established in her name.

Elaine was once asked to provide some highlights of her life. Her response illuminated her personality and her gift for writing poetry. She said:

A summary of my life? I dislike summaries, straight lines, neat designs, labels and systems. All is movement and change with sunlight and shadow. Like the coming and going of the seasons or the waves moving toward the shore. But there are the constant things like great music, poetry, art and the little acts of kindness and love to stay with us and steady us through life. Like small pebbles found embedded in Island cliffs and left there by glaciers and rivers long ago silent.

Honourable senators, I feel very honoured to have had the opportunity to know Elaine. I am sure that people who have had the pleasure of meeting her will always remember her. There is no question that she will be greatly missed.

UNITED NATIONS

SECURITY COUNCIL RENEWAL OF RESOLUTION 1422

Hon. A. Raynell Andreychuk: Honourable senators, I would like to draw attention to and express regrets concerning the renewal of resolution 1422 of the United Nations Security Council.

Honourable senators will remember that the resolution, which was originally adopted last July, provides that the International Criminal Court should, for a 12-month period starting July 1, 2002, not commence or proceed with investigation or prosecution of any case involving current or former officials or personnel from a contributing state not a party to the Rome Statute over acts or omissions relating to a United Nations established or authorized operation unless the Security Council decides otherwise.

United Nations Secretary-General Kofi Annan also opposed the resolution and expressed his belief that the request was unnecessary. Unfortunately, it was renewed on June 12, 2003, by a vote of 12-0, with France, Germany and Syria abstaining.

I would like to express my regrets with the renewal of the resolution. As convenor of Parliamentarians for Global Action's International Law and Human Rights Program, I share the same concerns raised by the association in their press statement of June 11. I will be so bold as to state that these concerns are most likely shared by many of my colleagues in this chamber.

Parliamentarians for Global Action have stated that its members:

...have vowed to uphold the principle of equality of all before the law. The organization fears that a renewal of Resolution 1422 would not only put a certain class of persons above the law, but may also endorse the view that the Security Council can amend multilateral treaties by unlawfully acting under Chapter VII of the UN Charter in the absence of a threat to the peace. Additionally, unopposed rollovers of the resolution each year could eventually lead to the development of customary rules against the universality of international justice.

I would also like to laud the words of Canadian Ambassador Paul Heinbecker in supporting the court and opposing the resolution when he stated:

The ICC's principal purpose is to try humanity's monsters, the perpetrators of heinous crimes....We believe that a system based on law — the fair, predictable, equal application of principles agreed to by all — is in everyone's interest. We believe we must defend these basic principles, even if it means we must sometimes respectfully disagree with friends.

Honourable senators, I urge the Canadian government to continue to press for full implementation of the Treaty of Rome that created the International Criminal Court. We must continue to pursue the protection of the integrity of the newly established court. In this way, we will have taken one bold step forward towards preventing mass atrocities, crimes against humanity and acts of impunity that offend the conscience of the international community.

I urge the Canadian government to continue to pursue its goal for the full establishment of the International Criminal Court.

• (1410)

ROUTINE PROCEEDINGS

TRANSPORT AND COMMUNICATIONS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING ADJOURNMENT OF THE SENATE

Hon. Joan Fraser: Honourable senators, I give notice that at the next sitting of the Senate, I shall move:

That the Standing Senate Committee on Transport and Communications be empowered, in accordance with rule 95(3)(a), to sit during the traditional summer adjournment of 2003, even though the Senate may be then adjourned for a period exceeding of one week, until such time as the Senate is ordered to return.

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING ADJOURNMENT OF THE SENATE

Hon. Lorna Milne: Honourable senators, I give notice that at the next sitting of the Senate, I shall move:

That the Standing Committee on Rules, Procedures and the Rights of Parliament be empowered, in accordance with rule 95(3)(a), to sit during the summer adjournment of 2003, even though the Senate may be then adjourned for a period exceeding one week, until such time as the Senate is ordered to return, and that, notwithstanding the usual practices of the Senate, the Committee be empowered to conduct its meetings by teleconference.

QUESTION PERIOD

NATIONAL DEFENCE

CONGO—RULES OF ENGAGEMENT—PROVISION FOR TROOPS FACING CHILDREN IN ARMED CONFLICT

Hon. A. Raynell Andreychuk: Honourable senators, my question is for the Leader of the Government in the Senate.

One problem endemic to armed conflict in Africa has been the use of child soldiers, most of whom are pressed into service. This is an abhorrent practice, and Canada has taken several initiatives to address the problem of child soldiers. Still, we are faced today with the very real fact that our peacekeepers, and those from other countries, will likely come face-to-face, in the war in the Congo, with child soldiers, some as young as seven years old.

My question is: The Leader of the Government in the Senate has told us that, for reasons of security, she cannot share the rules of engagement of the peacekeeping force in the Congo. While I can respect that, can she assure us that those rules of engagement have special provisions when it comes to facing young children in armed conflict?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I do not know if there are special provisions in the rules of engagement, as the honourable senator indicated. For security reasons, I cannot present those to the chamber. However, what I can do, and what I would be very pleased to do, is to ensure that the Minister of Defence is well aware of the shared concern of the honourable senator and myself, that when you are dealing with children, obviously special precautions must be taken and needed.

Senator Andreychuk: I know that the information coming out of the Congo is that an over-subscription of children are being used in other words, that the majority of confrontations will, no doubt be with these young, aggressive children who have been brain-washed into that position.

Is there any special program that the United Nations will put into play in this regard? I speak from my understanding of what happened in Uganda. It is one thing to try to stop a conflict, but what do you do with these children who know only machine guns power and force? If there is no backup program when you are trying to either stop them from using guns, or even removing the guns, then some sort of backup program must be instituted. I have yet to hear either the United Nations, Canada or anyone else address the problem of what to do once the forces are there, and what to do with these children. These youngsters cannot be handled as normal soldiers.

Senator Carstairs: The honourable senator puts some interesting questions. She is quite right; they are children. Whether they are soldiers or not does not get around the fact that they are children. As honourable senators know international treaties exist that spell out the age at which individuals can go into the forces, but such treaties do not apply to situations like the Congo.

I will indicate to the honourable senator that I will take up this matter with the Minister of National Defence and share our mutual concern, and also with the Minister of Foreign Affairs, to see if such programs have been contemplated, and if so, at what stage in their development they may be. At the moment, I must tell you that I know of no such programs.

HEALTH

SEVERE ACUTE RESPIRATORY
SYNDROME—EMERGENCY PROVISIONS FOR
POSSIBLE TRANSMISSION TO ABORIGINAL RESERVES

Hon. Wilbert J. Keon: Honourable senators, my question is for the Leader of the Government in the Senate. *The Globe and Mail* reported, today, that Health Canada has prepared emergency plans to prevent the SARS virus from spreading to Aboriginal reserves, due to fears that health conditions on reserves are ideal for the rapid transmission of such disease. Reserves have been told to identify buildings that could be used to isolate patients and have been given a list of medical supplies that they should ensure they have in adequate measure.

Could the Leader of the Government in the Senate tell us if the federal government will be increasing its contribution to the First Nations and Inuit health branch in order that reserves may meet the new requirements brought about by SARS?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the hope is that we will not have to deal with SARS in Aboriginal communities. As the honourable senator knows, SARS has been well isolated in this country to date, but the Canadian government is very concerned because the housing conditions on reserves, as he has indicated, would make the spread of that disease very rapid, should it occur.

Clearly, any decisions made about funding for the First Nations and Inuit Health Branch would have to be made at the time of any such outbreak. That branch is now doing preliminary assessments and putting into place some protocols that, should SARS strike, it is hoped that they would then know immediately how to treat it.

STRATEGY TO COMBAT TUBERCULOSIS
ON ABORIGINAL RESERVES

Hon. Wilbert J. Keon: Honourable senators, in spite of the emphasis on Health Canada's new plans in regard to the SARS outbreak, too many Aboriginal reserves in this country have been struggling for a long time against one of the most deadly infectious diseases in the world: tuberculosis. Health Canada numbers show that the First Nations' TB rates are 20 to 30 times higher than that of the Canadian non-Aboriginal population. Yet, this disease seems to go unnoticed. In 1992, the elimination strategy aimed at eradicating TB from First Nations communities by the year 2010, but that strategy has not been updated since it was released.

Will Health Canada's emergency plans for SARS prevention on reserves mean that a renewed emphasis will be placed on infectious disease control on reserves, particularly in relation to TB?

Hon. Sharon Carstairs (Leader of the Government): The honourable senator has identified an ongoing problem within our Aboriginal reserve communities. That is why extra money was put into the budget this year for the Aboriginal health branch, in order to address some of those issues.

Clearly, the issue of tuberculosis is not one that will go away. TB is the result of a combination of things: not only the living and housing conditions but also, in many cases, the lack of adequate

nursing personnel and physicians. Many of these communities do not see physicians from one week to the next.

I can assure the honourable senator that I will raise the issue of tuberculosis on Aboriginal reserves with both the Minister of Health and the First Nations and Inuit Health Branch, and indicate that the guidelines that are being developed for health care workers and for the First Nations people should not only look at the issue of SARS, but also at the active tuberculosis rates.

• (1420)

BOVINE SPONGIFORM ENCEPHALOPATHY—
LIFTING OF QUARANTINES

Hon. Leonard J. Gustafson: Honourable senators, hopefully, this will be the last question I ask about mad cow disease. Am I correct in believing that all quarantines have been lifted in regard to mad cow disease?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the information I have is that there has been a lifting of all the quarantines on all of the farms, but we are still awaiting some test results. The position is still the same; that is, only one cow has been diagnosed with BSE.

Senator Gustafson: Honourable senators, that is good news.

INTERNATIONAL TRADE

BOVINE SPONGIFORM ENCEPHALOPATHY—
UNITED STATES TRADE RESTRICTIONS

Hon. Leonard J. Gustafson: Honourable senators, has the government had any direction as to when the Americans may lift the border ban on beef going into the U.S.?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, as the honourable senator probably knows, the word seems to be quite positive from the United States. However, there now seems to be some concern about the Japanese, who have indicated that they will not accept American beef if the Americans have access to Canadian beef. The matter seems quite complex at this point.

All I can tell the honourable senator is that negotiations are ongoing with the Japanese government to see if we can allay their fears in the way we seem to be making significant progress in allaying the fears of the United States.

JUSTICE

SAME-SEX MARRIAGE

Hon. Gerry St. Germain: Honourable senators, my question is for the Leader of the Government in the Senate and pertains to an issue that has been before the courts and is now before cabinet. It is viewed by many, including some of the leading clergy in the land, that there is a basic erosion of the supremacy of Parliament by virtue of the fact that the courts appear to be making decisions by establishing the law rather than by interpreting it. Is the government prepared to seek the counsel of Parliament on the issue of gay marriages?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I think the honourable senator is well aware that there is an all-day meeting of cabinet taking place. I was there this morning. I had to leave in order to be here this afternoon, which is my preferred option. I always prefer to be here in the chamber.

The honourable senator will not have to wait too long before he hears exactly what the government will do with respect to same-sex marriages.

Senator St. Germain: Honourable senators, some of the leading clergy are saying that Parliament and not the courts should decide what is and is not marriage and that, for the government to be consistent with its arguments before the court, it should request an appeal to the Supreme Court. My question relates to what is being done today. Will the minister provide the government's definition of marriage? Will we have to wait until after the cabinet meeting to find out what the definition is or whether the government will appeal?

Senator Carstairs: Honourable senators will have to wait to hear if the government will appeal. Senators will then have to wait to see what kind of government legislation may or may not be introduced.

The bottom line is that if the Supreme Court were to uphold the decision from Ontario, the government would have to write legislation. There would be no option in that case, if the Supreme Court ruled in exactly the same way as the Ontario Court of Appeal.

Senator St. Germain: Honourable senators, is the minister saying to this place that Parliament does not reign supreme in this country, that, in spite of what the courts dictate, the government does not have the right to interpret legislation concerning this particular segment of our society in the way that they see fit, as far as Parliament is concerned?

Senator Carstairs: Honourable senators, I do not think the honourable senator understands the Constitution or the Charter of this country. What the courts of this nation are doing is interpreting the Charter. For me, it is the supreme law of the land, as it is for Senator Beaudoin. There is no question about that, as far as I am concerned. All the courts do is interpret. Any legislation that follows will have to flow from the Parliament of Canada. In that way, in making legislation, the Parliament of Canada is supreme. In interpreting legislation, I suggest that we have to turn to the courts.

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS— OPERATIONAL REQUIREMENTS

Hon. J. Michael Forrestall: Honourable senators, my question is for the Leader of the Government in the Senate. As the minister will recall, in the Maritime Helicopter Project slide-show presentation to 12 Wing on July 31, 2001, it was stated that:

...endurance requirements have proven to be too stringent for the market place. Only one competitor is compliant....

The document goes on to state that the:

...goal is to rationalize specification to the operational requirement, thereby opening MHP to greater competition.

Knowing, in July 2001, that Team Cormorant was the only technically compliant bid and that Treasury Board guidelines say that, in a lowest priced competition, only technically compliant bids are acceptable, why did the government go out of its way to change the rules? Cormorant, by the Department of National Defence's own admission, won this competition two years ago. In the meantime, we still fly less than adequate aircraft off our vessels.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, let me begin by saying that we do not fly unsafe aircraft. No member of the Canadian military is ever asked to go up in unsafe equipment. The Canadian people should understand that.

In terms of the honourable senator's question with respect to technical specifications, they have remained consistent with the statement of operational requirements. There was massive consultation with industry. Some changes were made to the technical specifications, but changes were only made where they maintained the integrity and the intent of the statement of operational requirements.

Senator Forrestall: As long as a bird can fly, I suppose it is still a bird, is it not?

EFFECT OF BUDGET SHORTFALL

Hon. J. Michael Forrestall: Honourable senators, I have just pointed out a major problem of this government, one it has failed to admit and to correct. This little fact makes an absolute mockery of the damage-control process conference held at the Department of National Defence on June 5 of this year. Everyone involved should take a second or two for other thoughts.

We now find out that the Minister of National Defence asserted that \$800 million, in the last budget, was enough to make ends meet at what I call "Fort Discourage on the Rideau." That was false and the money fell some \$200 million short, a fact I brought to this government's attention several months ago.

Will the minister confirm that the Minister of National Defence has plans now to eliminate C-130E long-range search and rescue aircraft and the Leopard 1 main battle tanks, and to scrap the 280 Class destroyers as part of his reallocation strategy?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I will begin with the honourable senator's introduction to his question, in which he insists that a press conference held for the information of the media was a damage-control press conference. It was not. It was an informational press conference.

As to the concerns the honourable senator has raised with respect to particular pieces of equipment on which the government may be making decisions, no decisions have been made with respect to any of those pieces of equipment.

REPLACEMENT OF SEA KING HELICOPTERS— TIMELINE FOR RELEASE OF TENDER

Hon. J. Michael Forrestall: Honourable senators, I am pleased to see that the Leader of the Government at least now knows that some kind of a meeting took place with senior press members on June 5, which, if not to effect damage control, was at least an attempt to smooth the way. The fact remains that the standing requirement for this vehicle has been so substantially changed as to reduce its effectiveness to a level not acceptable to bad weather operations either on the West Coast or the East Coast, let alone in the North or in our mountains, on augmentation search and rescue activity.

• (1430)

My question is, and we go back to where we were 10 or 15 years ago: Before we break for the summer, can the Leader of the Government in the Senate tell me how long "soon" is?

Hon. Sharon Carstairs (Leader of the Government): The honourable senator makes reference to equipment, operational requirements and technical specifications that may have been satisfactory 10 or 15 years ago. Technology has progressed a great deal in 10 or 15 years. We want a helicopter that is the best possible piece of equipment at the time that that helicopter is produced, not one that perhaps was the best piece of equipment in 1990.

Senator Forrestall: That is good for a chuckle.

FOREIGN AFFAIRS

PASSPORTS—INTERNATIONAL CIVIL AVIATION ORGANIZATION CALL FOR COMPUTER CHIP

Hon. Consiglio Di Nino: Honourable senators, I am delighted that the Leader of the Government in the Senate chose to spend some time with us today because I am hoping she can shed some light on an issue that all senators, indeed all Canadians, should be concerned about — what I call "Big Brother coming on strong."

Honourable senators, the UN's International Civil Aviation Organization is requiring all member countries to develop a computer chip for passports that contains a person's personal information, including a photograph. The subcommittee of the agency recommended last week that facial recognition technology should be the method by which to identify travellers. The agency's final decision on the matter is expected shortly.

I understand that Canada's passport office has already begun digitizing millions of photos. These photos will be downloaded into a foreign country's database every time a passport is scanned at its borders.

What is the status of Canada's compliance with the International Civil Aviation Organization's call for development of a computer chip for passports?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the federal government is trying to ensure that the Canadian passport remains one of the safest, if not the safest,

passport documents in the world. The civil aviation study to which the honourable senator has alluded is not yet final but will be shortly. At that point, Canada's passport will have to be compared with what is recommended internationally. Canada will determine what our passports must be and Canada will continue to have the highest possible standards.

Senator Di Nino: Honourable senators, the use of biometric data travel documents is a prime example of technology moving faster than our ability to properly assess its impact on both privacy and data protection. Before Canada allows the biometric information of its citizens to be entered into a foreign database, the federal government must be sure that the safeguards applied to this information meet the highest Canadian standards possible. Has this concern been specifically raised with the International Civil Aviation Organization, and can the minister assure this chamber, and indeed all Canadians, that appropriate safeguards will be in place before the federal government signs on to this system?

Senator Carstairs: The honourable senator has raised an important question with respect to technology. Sometimes the technology is very advanced but is not necessarily the right technology for the citizens of Canada. The technology that is determined for Canada will be based on the protection of Canadian citizens, maintaining that we have a high-quality passport.

THE SENATE

BLOCKING OF PORNOGRAPHIC E-MAIL MESSAGES

Hon. Douglas Roche: Honourable senators, my question to the Leader of the Government in the Senate is somewhat unusual. It starts from a personal base, although I think it is in the public interest and in the interests of all senators. It has to do with the inordinate amount of pornographic messages, unsought and unwanted, that are popping up on the computer in my Senate office. It is getting so that I hate to turn on the computer because I will be immediately confronted by a number of pornographic e-mail messages. Needless to say, this is very offensive, and I think it is an abuse to not only me but also my staff. Perhaps other senators are also experiencing this distasteful invasion of our privacy.

Can anything be done by Senate technicians, whom I regard as very competent in handling communications problems, so that this deplorable material can be blocked before getting through to senators' computers? Such an action here might lead to a wider public basis to protect the integrity of the e-mail communications system.

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for that question, but it is not appropriately addressed to me. It should be addressed to the Chair of the Standing Committee on Internal Economy, Budgets and Administration who looks after the Senate's computer network. I will bring that question to the attention of the committee's chair, the Honourable Senator Bacon.

HERITAGE

WINNIPEG SYMPHONY ORCHESTRA—
REQUEST FOR FUNDS

Hon. Terry Stratton: Honourable senators, my question for the Leader of the Government in the Senate is in regard to a letter sent to the Honourable Sheila Copps, Department of Canadian Heritage, concerning the Winnipeg Symphony Orchestra and a \$250,000 loan. The letter enquires as to the status of the loan. The letter to the minister states that the funds were urgently required by May 2003, and, as of June 13, there was no information to suggest a date when these funds would be received. Does the minister have any information as to when this might occur?

Hon. Sharon Carstairs (Leader of the Government): All I can tell the honourable senator is that I spoke this morning with the Honourable Sheila Copps, the Honourable Rey Pagtakhan and the Honourable Stephen Owen regarding this particular problem, and I hope it will be sorted out very quickly.

Senator Stratton: Honourable senators, I simply want to know when the funds will be received. I ask the leader to please let me know when that happens.

[Translation]

ANSWERS TO ORDER PAPER QUESTIONS TABLED

MINISTER OF JUSTICE AND SOLICITOR GENERAL—
ANTI-TERRORISM ACT

Hon. Fernand Robichaud (Deputy Leader of the Government) tabled the answer to Question No. 7 raised in the Senate on February 4, 2003—by Senator Lynch-Staunton.

OFFICES OF PRIME MINISTER AND PRIVY COUNCIL—
ETHICS COUNSELLOR

Hon. Fernand Robichaud (Deputy Leader of the Government) tabled the answer to Question No. 122 raised in the Senate on March 18, 2003—by Senator Stratton.

[English]

ENERGY, THE ENVIRONMENT AND
NATURAL RESOURCESCOMMITTEE AUTHORIZED TO MEET
DURING SITTING OF THE SENATE

Leave having been given to revert to Notices of Motions:

Hon. Tommy Banks: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on Energy, the Environment and Natural Resources have power to sit at 5 p.m. today, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

I am asking this permission, honourable senators, because the committee has three witnesses to hear today. One is resident here

and the other two have travelled some considerable distance. I am concerned, given the other events that are attending us these days, that we move the matter of the study ahead as quickly as possible. I ask the Senate's permission to do so.

Hon. Terry Stratton: Why would the honourable senator not be able to arrange this meeting in the committee's regular time slot? Why is it outside the time slot? If these people have travelled all this distance to be here today, why could they not have travelled to be here during the regular time slot?

Senator Banks: Our regular time slot is 5 p.m. Tuesday, or when the Senate rises.

Senator Stratton: Has the committee chairman consulted with the deputy chairman?

Senator Banks: Yes.

Senator Stratton: Have regular committee members on both sides agreed to this?

• (1440)

Senator Banks: It is my practice in that committee not to begin our meetings until we have a quorum and representation from both sides of the house.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

[Translation]

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, under Government Business, I would like us to begin with Item No. 6 under Bills and then resume the order proposed on the Order Paper.

[English]

NATIONAL DEFENCE ACT

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

Hon. John. G. Bryden moved second reading of Bill C-35, to amend the National Defence Act (remuneration of military judges).

He said: Honourable senators, Bill C-35 relates to the revision of the pay of military judges, of which we have three.

[Translation]

The Military Judges Compensation Committee was established in 1999, at the same time as a comparable committee was established for all of the Supreme Court judges in the country. Every four years, the committee reviews the remuneration of military judges and submits a recommendation to the Minister of National Defence. This practice is parallel to that used for fixing the compensation of the other judges in Canada.

The main purpose of the bill is to provide clear authority in the National Defence Act to make retroactive pay adjustments for military judges, if such is the recommendation made by the Military Judges Compensation Committee, and if the recommendation is accepted by the government.

At the moment, there is a one-off. The last time, there was no authority to make a retroactive award, even if the government were to accept the recommendation of the review committee.

This is in order to continue to assure the independent and objective, effective mechanism to deal with the pay of military judges, just as we do with other judges in our system.

Bill C-35 will enable the government to implement committee recommendations that may have a retroactive effect. The government must be able to implement any recommendations from the committee that it accepts. It cannot possibly simply accept a recommendation and have no way of implementing it. This legislation will ensure that the compensation committee process is an effective one.

Retroactive pay adjustments are routinely implemented for other members of the Canadian Forces and employees of the public service, as well as for other judges if so recommended by the judicial compensation committee. Bill C-35 merely ensures that there is clear statutory authority to make retroactive pay adjustments for military judges back to the beginning of the compensation committee's review period. That review period happens once every four years, and arises again in September of this year.

A number of other minor amendments to the National Defence Act are also included in the proposed legislation. These amendments deal with, in one instance, the warrants and reporting procedure for the obtaining of samples for forensic DNA analysis. The other ones ensure that there is greater clarity and consistency between the English and French versions of the act. These are two small issues that will best be discussed in committee if this bill is referred to the Legal and Constitutional Affairs Committee.

Just quickly to conclude, the proposed amendments to the National Defence Act represent an important contribution to the effectiveness of our military justice system. Honourable senators, I encourage all of you to support the proposed legislation.

On motion of Senator Lynch-Staunton, debate adjourned.

APPROPRIATION BILL NO. 2, 2003-04

SECOND READING

Hon. Joseph A. Day moved that Bill C-47, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2004, be read a second time.

He said: Honourable senators, in February 2003, the Minister of Finance tabled the Estimates in the House of Commons to support his request to spend public funds. Included in the Estimates was information pertaining to budgetary and non-budgetary appropriations.

Appropriation Bill No. 2, 2003-04, provided for the release of interim supply to the tune of \$17.8 billion for the Main Estimates 2003-04, allowing the government to continue to function until Parliament reviewed the entire budget in June. The interim supply received Royal Assent. The bill under consideration applies to the rest of the expenditures.

[English]

The bill before you, honourable senators, is Appropriation Act No. 2, 2003-04. It provides for the release of the remainder of full supply for fiscal 2003-04, which was outlined in the Main Estimates, amounting to \$41.1 billion dollars.

The 2003-04 Main Estimates — the “Blue Book,” honourable senators — has been made available to each of us. Part I and Part II were tabled on February 26 of this year. The tabling of the Main Estimates was the first phase in implementing the expenditure plan set forth in the Minister of Finance's budget of February 18, 2003.

The granting of full supply provides the funding required by the government to carry out its functions for the remainder of the fiscal year.

• (1450)

The 2003-04 Main Estimates total \$175.9 billion, including \$2.9 billion in non-budgetary expenditures — items such as loans and investments — and \$173.1 billion in budgetary spending. Those expenditures are consistent with and reflect the bulk of the \$180.7 billion expenditure plan set out in the February budget. The balance includes provisions for additional expenditures that are not sufficiently developed at this time and will be sought through Supplementary Estimates later in this fiscal year.

The government submits the Estimates to Parliament in support of its request for authority to spend public funds. Appropriation Act No. 1, which the Senate reviewed in March of this year, provided for interim supply in the amount of \$17.8 billion. The balance of the full supply is now being sought in this particular bill.

Budgetary expenditures, honourable senators, include the cost of servicing the public debt; operating and capital expenditures; transfer payments to other levels of government, organizations or individuals; and payments to Crown corporations. Non-budgetary expenditures, as I indicated previously, include loans and items such as that.

These Main Estimates support the government's request for Parliament's permission to spend \$58.9 billion under program authorities for which annual approval is required. There is also \$117 billion, or approximately 66.5 per cent of the total outlined in the budget, in the Estimates, which is statutory, and authority for those expenditures appear in statutes other than this supply bill.

Those forecasts are provided, therefore, only for the information of honourable senators, and you are not voting on that expenditure at this time. You are voting on the expenditure of the balance of the Main Estimates, which amounts to \$41 billion.

Honourable senators, schedules attached to the legislation reflect the Main Estimates for the year. This particular bill provides for authority to spend those amounts, less the amount voted on in Appropriation Act No. 1, which we voted on in March of this year.

I thought honourable senators would be interested in looking at schedule 1 of the bill on page 38, which outlines the amount that Parliament is seeking for this fiscal year. Item No.1, under the heading "Parliament," is \$41.7 million for the Senate —

Senator Cools: That is cheap.

Senator Day: — compared to \$205.5 million for the House of Commons — five times as much as the Senate.

An Hon. Senator: And they are on vacation.

Senator Day: In fact, honourable senators, the amount of \$41 million can be compared to the Canadian Centre for Management Development, which is \$25 million, or the Library of Parliament, which is \$23 million.

Honourable senators, therefore, will be aware that the Senate is, indeed, a very frugal and worthwhile institution in Canada.

Hon. Senators: Hear, hear!

Senator Day: Honourable senators, I bring to your attention increases in budgetary spending, such as: \$450 million for direct transfers to individuals due to increases in Old Age Security Payments; \$402 million to assist National Defence in performing its good work; \$204 million to the Canadian Institutes of Health Research; \$187 million for Canada's commitment to international assistance through the Canadian International Development Agency; \$173 million to the Department of Indian Affairs and Northern Development; \$168 million to Health Canada; and \$164 million to Veterans Affairs to increase pensions to veterans.

There are some decreases as well that I thought I would highlight: \$542 million related to agricultural risk management

due to termination of the Canadian Farm Income Program. If programs are discontinued, there is a recouping of those funds, but often another program is implemented, such as in relation to farm risk, and that would be another expenditure in another place. Next are decreases of \$100 million from Canadian Heritage related to the Canadian Television Fund, \$81 million from the strategic infrastructure and regional innovation initiatives.

Honourable senators, on the non-budgetary side, there is an increase of \$1.15 billion for the Export Development Corporation due to an anticipated increase in concessional loan disbursements and loan repayments from the Canada Account loan agreements.

There are also non-budgetary decreases, honourable senators, and I have highlighted some of those decreases.

Honourable senators have already heard the debate with respect to the report of the Standing Senate Committee on National Finance, which was presented last week and adopted earlier this week.

Supply bills are dealt with in a different manner from most bills that come before honourable senators. The report that we have already studied, presented, debated and accepted forms the report of National Finance Committee with respect to this particular supply bill.

Therefore, honourable senators, after debate on Appropriation Act No. 2 is concluded, and if honourable senators are inclined to accept this bill at second reading, then there will be a motion to proceed directly to third reading. I urge honourable senators to support this bill at second reading.

Hon. Lowell Murray: Honourable senators, I thank Senator Day for his very thorough presentation as to the contents of this appropriation bill. As he has pointed out, the Main Estimates for 2003-04, on which this bill is based, were referred to the Standing Senate Committee on National Finance in March. Since that time, we have heard from the officials of the Treasury Board. We reported on that meeting here in the Senate. We went on to hear from the President of the Treasury Board, Madame Robillard. We reported a second time on that meeting.

Let me add that the Estimates for this fiscal year are still before us, and we will have occasion, as the year goes on, to hold further meetings within that rubric as the spirit moves us.

• (1500)

Honourable senators, I do not intend to follow my friend with an analysis of the content of this appropriations bill. Rather, I intend to take advantage of the latitude that parliamentary tradition offers in a debate on an appropriations bill to pursue an issue that I raised briefly at the time of the debate on an interim supply bill last December.

The matter I have in mind is federal-provincial fiscal relations, with particular attention to what is called a fiscal imbalance, which has been very much in the news in recent weeks and will continue to occupy the attention of media and commentators as well as provincial and federal politicians.

A while ago, the Quebec government of former premier Bernard Landry appointed a commission under Mr. Yves Séguin to look into this matter. The Séguin commission found, in their opinion, that there is a serious "déséquilibre fiscal" between the two orders of government, with federal revenues growing faster than federal expenditures into the medium-term future, and provincial expenses growing much faster than their revenues in the medium-term future.

Since that time, the issue has been taken up by other provinces and by commentators; and, more recently, a new government was elected in Quebec — a federalist government under Premier Jean Charest. Lo and behold, the Minister of Finance in that government is Mr. Yves Séguin, the man who headed the commission on fiscal imbalance under the previous government. Premier Charest has announced that they intend to set up an office, a department as it were, of fiscal imbalance to pursue the question with Ottawa and with their sister provinces across the country. I think it is a safe bet that we have not heard the end of this issue for some time.

The federal government's response over the months has been largely through the voice of the Minister of Intergovernmental Affairs, Mr. Dion, reading a brief provided to him by the Department of Finance. The response has been to stonewall demands to redress this imbalance; stonewall it, first of all, by denying it exists, by attacking the methodology used by the Séguin commission and others, and by suggesting that projections of future budgetary surpluses or deficits are invalid because they are based on "status quo" assumptions. All that, of course, is true and due allowance must be made for those factors in making future projections.

Still, it has been done in the past. One of the things I want to do today is to refer very briefly to some examples in the past where the provinces and the federal government were able to come to some reasonable consensus as to what the future seemed to hold on revenues and expenditures at both levels of government, and to act accordingly.

Last February, as we know, as part of a first ministers' agreement on health, federal transfers to the provinces for health were increased. Indeed, provision is made for this in Bill C-28, for five years to 2007 and 2008. On the other hand, in the budget that was tabled, there is a table with assumed levels to 2010-11, for which no provision has been made beyond 2007-08. Whatever it is, those who predict that the federal-provincial ministers, and perhaps first ministers, will be back at the table on this very issue, making the same arguments within two to three years, are probably pretty close to the mark.

In addition, we have the growing problems of post-secondary education and of the universities. I will not go into them in detail today, but I have been concerned for some time that the enormous attention and publicity that is rightfully being given to health problems may be shuffling issues such as post-secondary education off into a corner.

The problem is one of a need, in my view, for a coherent, longer-term approach and agreement on these matters. The federal government has got to stop stonewalling. Now that the Charest government is in office in Quebec, the federal government can no longer brush off the declarations of Quebec on this issue as being nothing but separatist propaganda.

At a minimum, the federal government will have to agree, and soon, to a study of federal-provincial fiscal relations with an emphasis on the financing of social programs. This can be done either by royal commission, by parliamentary committee or jointly by the two orders of government. Each of these models has been employed at one time or another in the past. What is important is that it be undertaken soon, that it be comprehensive and that it be as objective as possible.

The most famous and far-reaching study was that done by the Rowell-Sirois commission appointed in 1937. Its mandate was to re-examine "the economic and fiscal basis of Confederation and of the distribution of legislative powers in light of the economic and social developments of the last seventy years." I do not believe we need to go quite so far in the examination that is called for today.

In the 1960s, there was a Tax Structure Committee comprising three ministers from the federal government and one from each province — a federal-provincial Tax Structure Committee that reported periodically to first ministers. Mr. Dion, who keeps insisting on the impossibility of doing anything coherent or valid by way of future projections, should obtain an introduction to the Honourable Mitchell Sharp, who was finance minister during the second mandate of the Pearson government, from December 1965 to April 1968.

In that capacity, Mr. Sharp inherited the chairmanship of the Tax Structure Committee: this committee of federal and provincial finance ministers and officials that, among other things, tried with some success to do exactly what Mr. Dion today finds so impossible, that is to examine trends in revenues, expenditures and debt of federal, provincial and municipal governments in the light of major federal-provincial shared programs.

I trust that, as a distinguished academic, Mr. Dion will not be offended if I also suggest a reading list for him on this subject. Much of the policy and politics surrounding the creation of the tax structure committee was described in an interesting and sometimes entertaining fashion in the memoirs of two senior mandarins: Tom Kent's *A Public Purpose*, published in 1988, at pages 272 to 277; and Gordon Robertson's *Memoirs of a Very Civil Servant*, published in 2000, pages 220 and 221.

Mr. Sharp himself referred to this Tax Structure Committee in his own memoir, entitled: *That Reminds Me*. I have a note here, in my own writing, saying pages 139 and 140, and I think those are the pages of Mr. Sharp's memoir that deal with this matter. I remember he quoted himself extensively from a speech he had given in the House of Commons on the work of the tax structure committee.

• (1510)

Both Mr. Kent and Mr. Robertson credit R.B. Bryce, the deputy finance minister of those years, with the idea of a federal-provincial tax structure committee, described as "a comprehensive review of the nature and extent of federal and provincial taxes in relation to the financial responsibilities that now had to be carried by the two levels of government."

The first report of the Tax Structure Committee came down in 1966, looked ahead five years and is available at the Library of Parliament. Also available there is, what I take to be, the final report of the committee delivered by Finance Minister E. J. Benson to a first ministers' conference, presided over by Prime Minister Trudeau in February 1970.

The exercise of the mid-1960s was preoccupied with the major financial pressures on provincial governments arising from the tremendous expansion of post-secondary education to accommodate the post-war baby boom and the need to make fiscal adjustments in favour of the provinces to enable them to meet this challenge.

"We both argued," says Mr. Kent, in referring to Gordon Robertson and himself, "that the provinces needed the money more than the federal government did." This is not a sentence we have heard very much recently or one we will hear in present circumstances. However, there is no denying the present needs of the provinces in view of the heavy responsibilities that they carry and will be carrying into the future, especially in the field of financing social programs.

It was interesting that in 1966, through this federal-provincial Tax Structure Committee, all provinces and the federal government were able to agree on a projection of an annual rate of revenue increase in the provinces of 7 to 7.8 per cent as against an annual rate of expenditure increase in the provinces of 8.5 per cent for the succeeding five years. They were able to make that projection. At the same time, they projected that federal expenditures over the succeeding five years would go up by 6.5 per cent per year as against annual revenue increases for the federal government of 7 to 8 per cent.

Mr. Sharp saw that, total provincial expenditures would be rising at what he called "an abnormal pace," largely because of rising costs of higher education. Therefore, he envisaged the need for a fiscal transfer that would rise as higher education expenditures rose.

All that was just before medicare. By the time the 1970 report was presented by Mr. Benson to a first ministers' conference, medicare was in the process of being implemented across the country. Governments were facing what seemed like unmanageable demands on their treasuries at a time of rising inflation and unemployment. Federal and provincial ministers saw rising expenditures in hospitals, health, welfare and post-secondary education. The Tax Structure Committee presented the issue quite starkly to first ministers and said:

If expenditures continue to rise at their projected rates, still higher taxes or deficits or both are unavoidable. The alternative is a strong and effective curtailment of expenditure growth, probably resulting in a reduction in the volume and quality of selected public services. These prospects — for higher taxes and/or appreciably slower growth in services — are further heightened in the immediate circumstances by the pressing need to minimize deficits for the government sector as a whole as one means of helping to bring prolonged and severe inflation under control.

Honourable senators, they were right. The fact that it took quite a long time for governments at both levels to heed the advice and analysis does not detract at all from the soundness of the analysis. It seems to me that what we need is this kind of consensus, analysis and advice today. When I talk about consensus, analysis and advice, I talk about the kind of consensus that would be reached, hopefully, as a result of an objective examination by federal and provincial ministers and their officials.

Fast forward now to February 1981, honourable senators. The House of Commons created a special committee acting as a parliamentary task force under the chairmanship of Herb Breau, MP, to "examine the programs authorized by the Federal-Provincial Fiscal Arrangements and Established Programs Financing Act of 1977, focusing on fiscal equalization, the tax collection agreements, the Canada Assistance Plan and the Established Programs Financing within the context of the government's expenditure plan as set out in the October 28, 1980 budget." The staff of the Economic Council of Canada did analytical studies for the committee, and the committee also had the benefit of research and advice from the parliamentary centre and from the library. The idea was to complete a study prior to the renegotiation of the federal and provincial fiscal arrangements that was then imminent.

The committee found the system "fundamentally sound" but in need of some adaptation to new circumstances. They found that there was no long-term structural mismatch in the revenue and expenditure responsibilities of the federal government. That is to say they felt that the revenue-raising capacity of the federal government had certainly not reached a structural ceiling, as they put it. I do not know what they would find today.

A majority of the committee said that further transfer of revenue sources or tax room to the provinces would not be appropriate at that time. They did not favour the transfer of further tax points to the provinces. They recommended that the Established Programs Financing be separated into two transfers, one for post-secondary education and one for health. Here we are, 23 years later, about to proceed in the direction suggested by the Breau committee. They also wanted to earmark the equalized value of the taxes transferred.

They suggested a three-year notice from the federal government before termination or amendment of these agreements. Indeed, we find a provision very much like this in the Social Union Framework Agreement that Ottawa signed with nine provinces a couple of years ago.

In the Breau report, I think honourable senators will find the basis of the Canada Health Act, passed several years later, in their recommendations. There was a strong emphasis on accountability to Parliament for federal spending. Many of the recommendations in health and social assistance, which was then covered by the Canada Assistance Plan, post-secondary education and equalization are still, in my opinion, worth reading, and some have found their way into policy and into law in the intervening years.

I believe that this year, 2003, there is a greater need for an overview of federal-provincial fiscal relations on the financing of social programs to provide guidance and stability for the medium term, which is not present now.

Honourable senators, the problem of trying to match projected revenues with projected spending responsibilities is certainly one of the oldest in federal-provincial relations. There has been plenty of attention to the problem in recent years by analysts, including some in and close to the federal government. The problem is that the federal government does not wish to engage itself. I saw, recently, a study in response to the recent demands for re-examination of the situation and the recent comments about fiscal imbalance.

Last July, the Department of Finance put out a document entitled: "The Fiscal Balance in Canada." Essentially, they brush off the whole argument by saying both orders of government have access to the same major revenue basis. "Arrangez-vous," they are saying to the provinces. They go on to say that the federal government faces a much greater fiscal constraint than the provinces as a result of its debt burden. They say both orders of government have key areas of responsibility and are facing growing demands on their resources, in which connection they add:

The federal government also faces growing spending pressures in other areas such as: elderly benefits, aboriginals, research and development, skills and learning and, more recently, security.

• (1520)

That list of federal responsibilities is very interesting because there is not one of them that exclusively belongs to the federal government. All of these areas they have mentioned are areas in which the provincial governments have either primary or concurrent responsibility. Once again, it seems to me, it points up the need for more coherence and coordination in federal and provincial fiscal relations.

The conclusion of the Department of Finance is stated: There is no evidence of a vertical fiscal imbalance in Canada. End of argument, so far as the federal government is concerned.

No evidence? There was a discussion paper done for the Romanow commission on the future of health care in Canada. That was last August. The study was entitled: "Federalism and Health Care: The Impact of Political-Institutional Dynamics on

the Canadian Health Care System" by François Rocher of Carleton University and Miriam Smith, also of Carleton University.

What they say is that:

The vertical imbalance is particularly important in the health care field. There is a growing gap between the fiscal capacity of the federal government compared to the provinces and territories and their ability to finance their own programs. The provinces and territories are responsible for programs based on services to citizens such as health, education, social services, et cetera, which are growing faster than the provincial tax base. For the federal government, the situation is the inverse: the federal government has revenue sources that are likely to increase more rapidly than the programs it finances.

This is a study done for a federal royal commission. However, I think it rather gives the lie — and it does so in much more detail than I have quoted — to the assertion by the federal Department of Finance that a federal-provincial fiscal imbalance simply does not exist.

It is not as if we did not see this coming. Twelve years ago, the Economic Council of Canada, in its annual review, found that to maintain levels of programming and existing spending commitments to 2015 would require an increase in provincial, local spending as a share of GDP, and a corresponding decline in federal spending. The next year there was a Federal-Provincial Study on the Cost of Government and Expenditure Management, which predicted that:

...the relative aging of the population will continue to increase...the demand for hospital and medical services.

In forecasts using realistic unit cost scenarios, the resulting pressure on provincial spending requirements emerged as the dominant trend in government spending needs over the next generation.

Ten years ago, G.C. Ruggeri and co-authors in a paper entitled: "Canadian Public Policy," said:

the federal government has developed a fiscal structure with revenue growth potential substantially in excess of the built-in growth of its spending responsibilities. Provinces, on the other hand, face rapidly growing expenditures on 'people programs,' particularly health care, but their revenue growth falls short of their spending requirements because, unlike the federal government, they do not dominate a revenue source with high income elasticity.

They say that:

The matter is complicated by the fact that vertical fiscal imbalance exists alongside horizontal differences between provinces.

In 1996 there was a federal follow-up study entitled: "Canada's Health, Education and Social Service Spending: Developments and Prospects" that found that "provinces, constitutionally responsible for health care, will face the most fiscal pressure" in social programming in the years ahead.

While the numbers have changed, I do not think the situation has materially changed in the intervening period. We have had a series of ad hoc solutions, Band-Aid solutions if you like, brought to bear every time there is a so-called crisis. Whenever there is an election coming up, another couple of years are provided for in terms of federal transfers, and the provinces dutifully take the money and run. However, it is not solving the problem that needs to be solved in terms of some medium to longer-term stability.

Last year, in July, the Conference Board of Canada did a study for the provincial premiers. Their projection shows that between 2001 and 2019/2020, federal revenues are projected to increase by 3.5 per cent, and its expenditures by 2.5 per cent, whereas provincial-territorial revenues were projected to increase by 3.4 per cent and their expenditures by 4 per cent.

Professor Tom Courchene, in another piece written, I think, in August of last year, came to a similar conclusion, which I shall share with you:

...there appears to be evidence of serious horizontal, (interprovincial) imbalances to go along with the vertical (federal-provincial) imbalance, so that a federal-provincial tug of war is in the offing.

Then he says, in one sentence:

To elaborate, it is important to recognize that the same projections that would generate a balanced budget (let alone a surplus) for Ottawa for fiscal year 2002-03 will lead to an outcome where virtually all provincial budgets will end up in deficit....

...one can speculate, as I have elsewhere, that this emerging vertical fiscal imbalance is ultimately not only about revenue shares but rather also about the division of spending responsibilities.

I think that will give you something of the flavour of what is on the public record on this issue.

As I say, the question of a fiscal imbalance of revenues and responsibilities of the two orders of government is as old as federalism itself and well-known in Canadian federalism. It was only a very few years after Confederation that some adjustments had to be made in favour of Nova Scotia and perhaps other provinces. The occasion for that was the threat by Nova Scotia to pull out of Confederation, and changes were made in the fiscal regime as between Ottawa and the provinces at that time.

I think there is no doubt that we need a thorough examination of revenue and expenditures of both orders of government for the medium-term future. People who are taxpayers and who are served by provincial governments in health, education and

welfare, and by the federal government through its direct social programs and the responsibility it has for vital areas, such as defence, security and international trade, should not be short-changed in terms of quality by ad hoc short-term approaches and unnecessary political bickering and finger-pointing.

The Hon. the Speaker: Is the house ready for the question?

Hon. Senators: Question!

The Hon. the Speaker: I will put the question. It was moved by the Honourable Senator Day, seconded by the Honourable Senator Lavigne, that this bill be read the second time. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

The Hon. the Speaker: When shall this bill be read the third time?

On motion of Senator Day, bill placed on the Orders of the day for third reading at the next sitting of the Senate.

• (1530)

INJURED MILITARY MEMBERS COMPENSATION BILL

THIRD READING—DEBATE ADJOURNED

Hon. Joseph A. Day moved the third reading of Bill C-44, to compensate military members injured during service.

He said: Honourable senators will recall that I spoke to Bill C-44 at second reading last Friday, when it was referred to the Standing Senate Committee on National Security and Defence. The committee, in recognizing the obvious merit of this matter, dealt with the bill and reported it back to the house on Monday afternoon without amendment. Bill C-44, which deals with compensation for military members injured during service, is now before honourable senators at third reading. It is retroactive in nature only and provides an example of how government and Parliament are able to move on an issue that obviously cries out for a quick solution.

Retired Major Henwood has been fighting this battle for eight years. Once the Minister of National Defence and the department became focused on the issue, things happened quickly.

Senator Meighen had hoped to speak to the report to urge the minister to take action, but now he will undoubtedly thank the minister for taking that action. I do not think further debate is necessary in respect of this bill, certainly from this side.

Hon. J. Michael Forrestall: Honourable senators, I rise to support Senator Day's comments.

On motion of Senator Forrestall, for Senator Meighen, debate adjourned.

**PENSION ACT
ROYAL CANADIAN MOUNTED POLICE
SUPERANNUATION ACT**

BILL TO AMEND—THIRD READING

Hon. Yves Morin moved the third reading of Bill C-31, to amend the Pension Act and the Royal Canadian Mounted Police Superannuation Act.

He said: Honourable senators, I rise to speak to the merits and importance of Bill C-31. I am confident that honourable senators will find this bill worthy of their full and enthusiastic support because, first and foremost, the proposed legislation could bring peace of mind to our men and women in uniform. I also believe that Bill C-31 reflects the realities of the 21st century requirements and responsibilities faced by our Canadian military and police forces.

[Translation]

Honourable senators, members of our Armed Forces and of the Royal Canadian Mounted Police have always displayed courage and determination in the face of the most dangerous situations. Over the years, some of them have tragically and heroically given their lives in the service of their country; others have been seriously wounded.

It is therefore essential that these heroes be able to benefit from the fullest protection in terms of life insurance and disability pensions. Honourable senators, I would invite you to pass this bill swiftly.

[English]

Hon. Norman K. Atkins: Honourable senators, I rise to support Senator Morin's comments. Bill C-44 was referred to committee and was adopted without amendment. I am hopeful that it will pass third reading.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

[Translation]

BUDGET IMPLEMENTATION BILL, 2003

**THIRD READING—MOTION IN AMENDMENT—
SPEAKER'S RULING—DEBATE CONTINUED**

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Robichaud, P.C., for the third reading of Bill C-28, An Act to implement certain provisions of the budget tabled in Parliament on February 18, 2003,

And on the motion in amendment of the Honourable Senator Nolin, seconded by the Honourable Senator Murray, P.C., that the Bill be not now read a third time but that it be amended in clause 64, on page 55,

(a) by deleting lines 11 to 39; and

(b) by renumbering clauses 65 to 130 as clauses 64 to 129, and any cross-references thereto accordingly.
—(Speaker's Ruling).

The Hon. the Speaker: During last evening's sitting, Senator Nolin spoke on the third reading motion of Bill C-28, a budget implementation bill. During the course of his remarks, he proposed an amendment to delete certain lines at clause 64 on page 55 of the bill. The effect of the amendment was to delete the entire clause.

[English]

Senator Murray then intervened to explain his interpretation of the significance of this deletion. As he put it, "the effect of the amendment that Senator Nolin has proposed would be to allow the Federal Court judgment to operate across the board, as it were, to all those school boards that would be affected by that judgment." As if anticipating a possible point of order, Senator Murray went on to provide some information about the somewhat confusing views expressed in the parliamentary authorities. At the same time, however, he seemed to express the opinion that, in the end, the amendment was not out of order.

[Translation]

Senator Murray's participation was prescient, for it just preceded a point of order that was raised by Senator Carstairs, the Leader of Government, who suggested that the amendment "is in substance exactly the amendment that was raised last week, which Your Honour declared to be out of order."

[English]

Senator Murray then spoke again to offer a more detailed statement of his position with respect to the point of order. After reviewing numerous precedents, he noted that "there are a number of things that can be done in the context of a bill of this kind, that are perfectly in order and perfectly consistent with both the constitutional and parliamentary tradition and practice in this Parliament." He then went on to list some of those options available.

[Translation]

I want to thank the honourable senators for their intervention. I have reviewed the matter and I am ready to rule on this point of order.

[English]

In assessing the merits of this point of order, it was necessary to take into account that the Senate is currently debating the third reading motion of a bill. Senate practices, acknowledged in our own *Rules of the Senate*, make it clear that it is possible to amend clauses at third reading. In addition, it is even possible to move the reconsideration of any clause at this stage so long as the bill is

still before the Senate. This is provided for in rule 77. The fact that we are reconsidering an amendment on clause 64 does not, in and of itself, make the amendment out of order. I do not think that was the rationale behind Senator Carstairs' objection.

[Translation]

Instead, I believe that the thrust of the senator's objection is that the amendment itself is out of order because it infringes the financial initiative of the Crown with respect to the authorization of expenditures. This was the substance of my ruling during last Friday's sitting, to which Senator Carstairs referred.

[English]

In this case, however, whatever the results of the amendment, it is not identical to the proposal that was made last week. That amendment sought to insert a phrase in clause 64 at the end of line 19 on page 55: "into force on December 17, 1990, except in respect of cases in which school authorities and lawyers representing Her Majesty in right of Canada, have agreed to file consents to judgment before the appropriate court." I interpreted that as an amendment to the bill which involved the expenditure of money. The amendment moved by Senator Nolan may or may not have the same effect. Senator Murray explained what that effect might be, but it is certainly in a different form from last week's amendment proposed by Senator Beaudoin.

• (1540)

The parliamentary authorities are consistent in recognizing the procedural validity of any amendment to a bill that seeks to delete a clause. For example, the most recent Canadian manual of practise, Marleau and Montpetit, states at page 666:

...since 1968 when the rules relating to report stage came into force, a motion in amendment to delete a clause from a bill has always been considered by the Chair to be in order, even if such would alter or go against the principle of the bill as approved at second reading...

In the Senate, our rules and practice are equally generous with respect to amendments. There are numerous examples that could be cited, as Senator Murray himself did last evening. Consequently, it is my ruling that the amendment moved by Senator Nolin is in order. Third reading debate on Bill C-28 and the amendment can proceed.

[Translation]

Hon. Gérard-A. Beaudoin: Honourable senators, I am told that the amendment moved yesterday by Senator Nolin has been ruled in order by the Speaker of the Senate. I am, naturally, in full agreement with the amendment, and I invite all the honourable senators to vote in favour of it.

This amendment seeks to respect the Federal Court decision confirming the rights of school boards to a 100 per cent rebate of the excise tax they paid.

Bill C-28 must be placed in its true context. This concerns the legal principles established by the courts, no more no less. When a court hands down a decision, the principle of *res judicata* applies,

and when the Supreme Court renders a decision, that decision acquires force of law. That is our system. I quite like this constitutional democracy. I simply want to ensure respect for the principle of the rule of law. Senator Nolin's amendment is clearly in keeping with this.

Furthermore, given our constitutional law, I do not see how we, as a legislative House, could determine that this does not apply to the school boards in group two. They are in the same situation, with regard to the facts, as the schools boards in group one. Consequently — and I hope that the law will be respected — the same legal principles apply.

The legislative branch, or Parliament, and the judicial branch each have, in their respective jurisdictions, independent and substantial powers. In my opinion, this amendment respects the principles of law as interpreted by the courts. If a court says — and this is the case here — that such and such a thing must be done, it must be done, even if expenses are incurred. There is nothing unconstitutional about this.

Honourable senators, I do not see any infringement on the powers of the Senate or the House of Commons, and we, as the Parliament of a democratic country, must respect the principles of law as interpreted by the courts.

In conclusion, as I stated last Friday, I believe that the principle of *res judicata* is a principle inherent in our legal system, our judicial system and our jurisprudence. It has existed for many, many centuries, probably since the Middle Ages, perhaps even from the Roman empire, but I shall stop here. There is no point in going back twenty centuries to make my case.

Honourable senators, I suggest that this amendment be adopted by the Parliament of Canada, the Senate and the House of Commons.

[English]

Hon. Wilfred P. Moore: Honourable senators, I attended the hearing of the Standing Senate Committee on National Finance at which this matter was discussed in some detail. The Deschênes School Board won a decision in the Federal Court in October of 2001. Other boards were similarly interested. They subsequently took their action. They were successful. The government — Department of Justice, various ministers — did nothing after that until December 21, 2001, when a ministerial announcement was issued indicating that the minister intended to bring in legislation retroactive to 1991. Other boards were already in the legal process. They were already exercising their rights and their capacities to do so within the law of the land.

For society to function, there must be certainty. In Canada, that certainty is provided by the rule of law. I find such an approach of retroactive legislation to be repugnant to our whole system. I really find it strong-handed. I think someone alluded to it in the debate yesterday as being when the larger, weightier party to an action changes the rules, moves the goalposts and makes it difficult for citizens to proceed with the exercise of their rights.

[The Hon. the Speaker]

Think about it. What did the government do? They did nothing. They did not appeal. I found it interesting that they did not appeal the decision of the Federal Court. They could have, but I think they probably knew they would not be successful. What did they do? They waited until now, and they buried their action in a piece of key legislation dealing with very important budgetary matters. I find the whole thing quite presumptive. They issued a statement saying, "We intend to do this." I do not know if that was meant to be a threat to other parties not to proceed when they have every right to do so.

• (1550)

Their approach is to try to make us part of their scheme. What is happening here is an awful thing. I cannot tolerate retroactive legislation. It flies in the face of due process, natural justice and anything else of which you can think.

I would, therefore, lend my support to the amendment and urge other colleagues to do so.

On motion of Senator Bolduc, debate adjourned.

NATIONAL ANTHEM ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Kinsella, seconded by the Honourable Senator Corbin, for the second reading of Bill S-14, to amend the National Anthem Act to reflect the linguistic duality of Canada.—(*Honourable Senator Prud'homme, P.C.*).

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, Senator Prud'homme gave me assurance that he would speak on this bill no later than today, and he asked whether I would concur with him that after second reading the bill not go to the Standing Senate Committee on Social Affairs but rather to the Standing Senate Committee on Official Languages. That was satisfactory to me. Therefore, I do not concur that the item should stand.

The Hon. the Speaker: If no one is moving adjournment, I ask honourable senators if they are ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker: It was moved by the Honourable Senator Kinsella, seconded by the Honourable Senator Corbin, that this bill be read the second time. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Kinsella, bill referred to the Standing Senate Committee on Official Languages.

[Later]

POINT OF ORDER

Hon. Marcel Prud'homme: Honourable senators, I rise on a point of order. I did not know that we would proceed so rapidly today. I was solving an issue in His Honour's office. I wanted to speak today on the previous Order Paper item.

I want Senator Kinsella to hear me because I am so furious at this motion. I had said that I would speak today. I had told Senator Kinsella that I would speak today. I told him to delay, delay, and delay in my brief absence.

I am furious. It is the worst thing that could be done in this country, to allow this sabotage of one of the greatest "héritage de notre peuple canadien français du Québec." It is on the day of the death of Pierre Bourgault. Now you can laugh. We will now have a "franglais" national anthem.

I want honourable senators to know that I had arranged with Senator Kinsella that the bill should be sent to the Official Languages Committee. I will wait for the committee.

I have all my notes here. I was here a minute ago. I went to solve a problem in His Honour's office. I had promised that I would speak today. I am very upset.

However, it is okay. I will wait for another time.

CRIMINAL CODE

BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Lapointe, seconded by the Honourable Senator Gauthier, for the second reading of Bill S-18, to amend the Criminal Code (lottery schemes).—(*Honourable Senator LaPierre*).

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, Senator LaPierre is representing the Senate at another function. He has asked that he be allowed to speak to this bill at a later date.

On motion of Senator Carstairs, for Senator LaPierre, debate adjourned.

MERCHANT NAVY VETERANS DAY BILL

SECOND READING—DEBATE ADJOURNED

Hon. Joseph A. Day moved the second reading of Bill C-411, to establish Merchant Navy Veterans Day.—(*Honourable Senator Robichaud, P.C.*).

He said: Honourable senators, I yield my time to speak to Senator Atkins, and I will attempt to speak on this tomorrow.

Hon. Norman K. Atkins: Is that procedure appropriate?

The Hon. the Speaker: It is not relevant who speaks first or second because of the 45-minute time limit. It seems that Senator Day is comfortable with having the opposition speak first on this government bill. He will have 45 minutes, provided that he speaks second. I do not see anything wrong procedurally. If Senator Atkins wishes to speak now, he may do so.

Senator Atkins: Honourable senators, it is with pleasure that I rise to address Bill C-411.

This bill is short but significant. It acknowledges the tremendous efforts of the veterans of the merchant navy in the defence of Canada and, as well, sets aside a day to remember their contribution to freedom. Bill C-411 would designate the third day of September as merchant navy veterans day. I commend the effort of Mr. Paul Bonwick, Member of Parliament for Simcoe—Grey, for bringing forward this bill.

As honourable senators will recall, it has been a long and difficult fight for the veterans of Canada's merchant navy to gain recognition for their valiant efforts, particularly during the Second World War. The merchant navy was often called the fourth arm of the fighting service, and the Canadian fleet grew rapidly during World War II. By the end of the war, Canada's merchant marine navy had grown to 180 ships and 12,000 members. Many more Canadian merchant mariners sailed on Allied ships.

• (1600)

The sea lanes of the North Atlantic Ocean were hazardous and the Canadian merchant navy seamen faced dangerous and difficult circumstances, including cold North Atlantic weather, U-boats, surface radar, mines and enemy aircraft.

The book of remembrance for the merchant navy lists by name 1,629 Canadians and Newfoundlanders who served on ships registered in Canada or Newfoundland who lost their lives in the Second World War. A total of 198 Canadians were prisoners of war and some were interned for up to five years.

Recognizing the efforts of the navy merchant veterans for their contribution to Canada's efforts in various conflicts is long overdue. I am pleased to support the designation of September 3 as a day when Canadians salute the veterans of the merchant navy for their bravery and tremendous contribution to the liberty and freedoms we enjoy today.

On motion of Senator Day, debate adjourned.

STUDY ON POSSIBLE ADHERENCE TO AMERICAN CONVENTION ON HUMAN RIGHTS

REPORT OF HUMAN RIGHTS COMMITTEE—
DEBATE CONTINUED

On the Order:

Resuming debate on the consideration of the fourth report of the Standing Senate Committee on Human Rights entitled: *Enhancing Canada's Role in the OAS: Canadian Adherence to the American Convention on Human Rights*,

tabled in the Senate on May 28, 2003.—(*Honourable Senator Fraser*).

Hon. Joan Fraser: Honourable senators, I rise to speak today to the fourth report of the Standing Senate Committee on Human Rights, entitled "Enhancing Canada's Role in the OAS: Canadian Adherence to the American Convention on Human Rights."

I would like to begin by paying tribute to Senators Andreychuk and Maheu. Senator Andreychuk was the founding driving force of the Committee on Human Rights and piloted this very important study of our adherence to inter-American legal systems. Senator Maheu guided the committee, to which I no longer belong, to the conclusion of its work. It is a very important study. It recommends that Canada take all necessary steps, including a public debate, in order to adhere to the American Convention on Human Rights and, by extension, to accept the jurisdiction of the Inter-American Court by July of 2008, which is the thirtieth anniversary of the coming into force of the convention.

I share the committee's goals. It is important to strengthen the web of international law and human rights. I think Canada has a proud record in doing so. We should be working to extend our adherence to these instruments in our own hemisphere as well as around the world.

I would note that if we do adhere to the convention and join the court, the court will be strengthened in two ways: first, financially because we will be contributing to it, and it is not a rich court; it needs all the support it can get; and, second, by being able to furnish judges to it, which some of the witnesses before the committee suggested would be useful to the court. The court is doing excellent work but, again, we would contribute very well to it. Finally, joining this system would demonstrate our commitment to our Latin American friends and to our integration into the hemisphere as well as our other international links.

Generally, I support what this report is trying to achieve, but I believe there are serious problems in two areas. I do not think that the committee has adequately addressed one of those areas. One it has addressed very well; but not the other one.

The first of these areas, and the one I think the committee addressed well, has to do with the right to life. Article 4.1 of the American Convention on Human Rights reads:

Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life.

On the face of it, that would suggest that it is a provision banning abortion. We heard expert testimony that it has not been interpreted in that way. However, we also heard testimony from a number of witnesses who suggested that if we were to adhere to the convention this might mean, if a case were brought to the Inter-American Court, as it very well might be — we know how

much people care about abortion matters — that Canada would be obliged to legislate in the field of abortion. It would not impose upon us an obligation to legislate in any particular way, but it would perhaps impose upon us the obligation to legislate.

As honourable senators know perhaps better than any other Canadians, Canada, thanks to a decision by this chamber, has chosen not to legislate in the field of abortion. I am not at all sure that Canadians are even remotely interested in re-entering this debate at this time, and certainly not as the result of a decision of an international court.

The committee, in my view, took the appropriate response. It said that we should take a reservation on this clause of the convention; that is, when we ratify the convention, say that we refuse to accept that this particular clause applies to us; it will not apply to us. If we did that, the problem would be over. Cases could not be brought to the Inter-American Court in this manner.

The other problem in the convention that concerns me greatly is its treatment of freedom of expression, in two particular areas. Let me start by citing article 13.2, which reads:

The exercise of the right provided for in the foregoing paragraph —

— that is to say, freedom of expression —

— shall not be subject to prior censorship...

Anyone who remembers the debate on the Pentagon Papers will be aware that in general the communications media tend to resist anything that could be called prior restraint on publication, the idea being that you should be free to publish what you believe needs to be published and then take your lumps if you got it wrong. However, in Canada, we have some laws that might come under that heading. We have, for example, laws prohibiting publication of certain legal matters that are before the courts. We have laws about such things as the publication of juvenile offenders' names. Therefore, one would wish to be very sure that we could not find ourselves being obliged to overturn laws that Canadians believe are good and justified. In that case, as the committee recommends, we could file an interpretive declaration when we ratify the convention; which is to say that we accept this article of the convention but we understand that it does not apply to Canadian law in certain fields, such as the publication of young offenders' names. I think that would probably work. So far, so good.

However, now we come to Article 14 of the convention. That article is, in my view, far more problematic, both in its substance and in what the committee has recommended we do about it.

Article 14 reads:

1. Anyone injured by inaccurate or offensive statements or ideas disseminated to the public in general by a legally regulated medium of communication has the right to reply or to make a correction using the same communications outlet, under such conditions as the law may establish.

2. The correction or reply shall not in any case remit other legal liabilities that may have been incurred.

Honourable senators, I am sure that sounds good. Who among us, having been unfairly damaged or maligned by the press, might not think that a right of reply would be a wonderful thing to have? Indeed, responsible media do make great efforts to carry corrections and rectifications when it is demonstrated to their satisfaction that they have done an injustice. However, to write into law a right of reply would set, in my view, a very dangerous precedent in our system.

The committee heard only one witness who was an actual expert in freedom of speech issues.

• (1610)

His name is Mark Bantey, and he is a distinguished lawyer in Montreal with a very long record of legal work in this area. He said that, in his view, this clause of the American convention was contrary to the Canadian Charter of Rights and Freedoms, specifically, contrary to section 2(b) of the Charter which guarantees freedom of expression and freedom of the press.

The fundamental principle here, honourable senators — and it is a fundamental element of the freedom of the press — is that only the press, with very rare exceptions, may decide what the press shall publish. Just in case you think I am taking a journalist's knee jerk reaction to this, I thought I would cite for you some legal decisions. There is a long history of jurisprudence in this area, and I will draw some of it to your attention.

One of the legal decisions in the United States that has been viewed as a monument in this area involved the case of *Miami Herald Publishing Company v. Tornello* in 1974. In that case, the State of Florida had a statute allowing political candidates to compel newspapers to publish a reply if they felt unfairly treated. The United States Supreme Court said that legislators may not interfere with editorial discretion, that is, the decision to print or not to print a reply. The court found the mandatory right of reply statute to be as offensive as censorship. If you think through the implications, I am sure you can understand why.

[Translation]

There is a long history of jurisprudence in Canada on this. For instance, the well known *Reference re Alberta Statutes*, 1938, even before there was a Charter, in which the Supreme Court of Canada recognized the editor's ability to decide on the content of his publication without state intervention.

Later on, in 1979, in another very important case, a monument of precedent in this area, in *Gay Alliance Towards Equality v. The Vancouver Sun*, Martland J. concluded the following:

The law has recognized the freedom of the press to propagate its view and ideas on any issue and to select the material which it publishes.

To select the material which it publishes.

[English]

Finally, I would draw to your attention in this matter the case of *Trieger v. Canadian Broadcasting Corp.*, 1988, in which the high court of Ontario said, among other things:

It is not the function of government or indeed the courts to dictate to the news media what they should report.

I think those are important precedents and important arguments to bear in mind in this matter.

There are, however, other grounds than the constitutional grounds for opposing the application of this clause to Canada, and Mr. Bantey, to whom I referred earlier, drew our attention to some of them. I will quote from his testimony. He said:

Article 14 basically gives an automatic right of reply to anyone who happens to disagree with an article or an opinion published in a news medium. Will this provision, if enacted in legislation, flood the news media with inept, useless or irrelevant rebuttals? How do you run a newspaper if you are printing hundreds of replies from hundreds of individual citizens and public officials?

A British House committee examining freedom of press issues, the Fox committee, said that a mandatory right of reply is inherently objectionable because it "entitles a person, who may be without merits, to compel a newspaper to publish a statement extolling his non-existing virtue."

If the media are compelled to publish replies, shall they be forced to publish replies that are themselves libellous, obscene, racist or inaccurate? What if the editor knows that the reply contains blatant falsehoods meant to mislead the public? What if the reply is irrelevant to the issue at hand?

I can assure you, honourable senators, that in the practical operation of the press, be it electronic or print, those are very real questions that one would find oneself faced with on a distressingly regular basis.

Some of the witnesses before the committee said, "Well, this is not really a problem because Canadian law, specifically Quebec law, includes the right of reply." This is not, in fact, true. In the applicable legislation in Quebec, there is one clause that is a little ambiguously worded, but taken in conjunction with another clause, it makes it clear that, in Quebec, if a newspaper or other communications medium allows the person who deems himself or herself to have been offended to exercise a right of reply, then the fact of publishing that reply means that there are no damages — quite different from the Inter-American Convention.

However, nothing in Quebec law obliges the press to publish a reply crafted by someone else. If they want to do it they can, but if they do not want to do it and want to fight that case in the courts, they can fight that case in the courts. It may be the case that, in due course, the judge will decide that the communications medium has committed libel and will order, among other

things, the publication of the court judgment in the offending medium. However, that is the publication of the judge's judicious and judicial words, not the publication of the offended person's words crafted in any way he or she sees fit. The distinction is important, and even that is very rare. It generally does not work out that way, so the argument that we already have this in Canadian law really does not bear any examination at all.

The committee recommended on this matter, and I quote from the report:

...that the Government of Canada consider making an interpretive declaration to express its understanding that the right of reply under article 14 is not absolute and that it is exercised according to applicable provincial legislation.

My difficulty with that recommendation, honourable senators, is that it suggests that there are occasions when legislation, whether federal or provincial — provincial, in this matter — is appropriate. I do not think that general legislation guaranteeing a right of reply is appropriate, at any level.

[Translation]

The Hon. the Speaker *pro tempore*: The time allocated to the honourable senator has expired. Does she have leave to continue, honourable senators?

Senator Fraser: I would need another two minutes.

[English]

I would further draw to your attention, honourable senators, that decisions of the Inter-American Court, once one accepts its jurisdiction, are binding. They even outrank decisions by the Supreme Court of Canada, so that I would have very grave reluctance, indeed, to submit to this particular clause.

I believe that Canada should adhere to the American convention, but I believe we should take a strong reservation on that clause — no ifs, ands or buts. For that reason, it is with regret that I shall abstain from supporting the committee's report, even though I support all the other parts of it.

Hon. Tommy Banks: May I ask a question of the senator?

Senator Fraser: If the Senate is willing, yes.

Senator Banks: I may have misunderstood the honourable senator, and I would ask her to straighten me out if I did. I think the honourable senator said that section 14 talked about the obligation to right of reply in regulated media. I do not think in Canada — and the honourable senator would know this immediately — that newspapers are regulated media.

Second, there are many international conventions and treaties that many different countries have signed and ratified, except that they have reserved their ratification on a carved out area and say they agree with all of this except this part here. I wonder if that would be an alternative in this case.

[Senator Fraser]

• (1620)

Third, when the honourable senator was speaking about electronic media, was she taking into account the fact, and I am sure she did, that during election campaigns there are regulations with respect to equal time that apply in the electronic media in Canada?

Senator Fraser: Obviously, newspapers are not regulated in anything like the way electronic media are regulated. A vigorous lawyer could make the argument that they are regulated by the mere fact that they must have business permits to operate.

My recommendation is precisely that we take a reservation, not an interpretative declaration, on this element.

I cannot now remember the honourable senator's third question.

Senator Banks: Had the honourable senator taken into account that during the course of a declared election campaign there is tit for tat in the electronic media?

Senator Fraser: Yes. I was at pains to say that there were a very few rare exceptions to this rule. The fundamental notion of freedom of the press is that we need it to enhance democracy. Extending free speech by publicizing election platforms enhances democracy. Thus, it does not offend the basic principle, in my view.

On motion of Senator Andreychuk, debate adjourned.

[Translation]

STUDY ON DOCUMENT ENTITLED "SANTÉ EN FRANÇAIS—POUR UN MEILLEUR ACCÈS À DES SERVICES DE SANTÉ EN FRANÇAIS"

REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE—ORDER STANDS

On the Order:

Resuming debate on the consideration of the Seventh Report of the Standing Senate Committee on Social Affairs, Science and Technology (document entitled: Santé en français — Pour un meilleur accès à des services de santé en français (French-Language Healthcare — Improving Access to French-Language Health Services)) tabled in the Senate on December 12, 2002.—(*Honourable Senator Ringuette*).

Hon. Maria Chaput: Honourable senators, I am interested in taking part in the debate on consideration of the seventh report of the social affairs committee. I move that the debate stand in my name until the next sitting and depending on the amount of time I have left to continue.

Order stands.

[English]

STUDY ON NEED FOR NATIONAL SECURITY POLICY

INTERIM REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on the consideration of the fifth report (interim) of the Standing Senate Committee on National Security and Defence, entitled: *The Myth of Security at Canada's Airports*, deposited with the Clerk of the Senate on January 21, 2003.—(*Honourable Senator Atkins*).

Hon. Tommy Banks: Honourable senators, with respect to consideration of the fifth report of the Standing Senate Committee on National Security and Defence, I have the permission of Senator Atkins to speak briefly today in order that debate on this item be continued. I ask that debate be adjourned in the name of Senator Atkins for further consideration and that we resume the counting again. Honourable senators know what I mean.

On motion of Senator Banks, for Senator Atkins, debate adjourned.

THE BUDGET 2003

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Lynch-Staunton calling the attention of the Senate to the Budget presented by the Minister of Finance in the House of Commons on February 18, 2003.—(*Honourable Senator Robertson*).

Hon. Norman K. Atkins: Honourable senators, if the Honourable Senator Robertson does not mind, I would like to speak to this item.

Hon. Brenda M. Robertson: I do not mind at all.

Senator Atkins: Honourable senators, I rise today to speak on the 2003 federal budget read in the other place in February by the new Minister of Finance. In preparing my remarks for today, I took the opportunity to review previous speeches I have given on budgets brought down by the present finance minister's predecessor, Mr. Martin. I was struck by the consistency of the criticism I have raised over the years.

While I have been consistent in my criticism, the government has been consistent in the content of the budgets. There has not been enough money for the military. Student debt is ignored. Instead of concentrating on two or three areas and dealing with them totally and conclusively, we are continually faced with what we on this side have called a "scattergun approach" — a little money here, a little money there, but not nearly enough to make a significant difference in the lives of Canadians.

Last time we heard from Mr. Martin, we were to have the security budget, which actually did little to address Canada's security needs. This time we were to have, for want of a better phrase, the Prime Minister's legacy budget, but it had no real focus except increased spending spread over a number of initiatives, but not enough to really make a difference in any one of them.

As a fiscal conservative, I would liked to have seen a real commitment to addressing the country's debt. The greatest thing we can leave our children and our grandchildren is a country that is mortgage free.

This, however, does not seem to be a priority for this government. The priority seems to be to spend to satisfy the demands of several interest groups. Paying down the debt guarantees our future, a future in which we are free to set priorities unencumbered by huge interest payments.

As it is now, little is left in the reserves, and we may be entering a period of slow or marginal economic growth. Too bad the government did not pursue a more prudent course.

Today, I wish to address in some detail four areas where I believe this budget fails Canadians: the failure to deal with student debt; defence; health care; and the emerging issue of the failure of this government to adequately provide funds to replace the crumbling infrastructure of our major cities.

With regard to student debt, I am well aware that this budget puts more money — \$60 million over two years — into the Canadian Student Loan Fund. Also, I know that provisions have been made for reductions if graduating students find themselves in financial difficulty.

In my opinion, the first thing the government should do is make the full amount of scholarship and bursaries tax exempt. Second, it would stop playing at the margins with the issue of student debt. The problem is that with rising tuition costs necessitated by the decrease of transfer payments, financially challenged students are required to take out larger and larger loans.

Under this government, since 1994, some \$24 billion has been cut out of the CHST in relation to health and post-secondary education. In the 2000 general election, our party proposed a tax credit based on the repayment of Canada's student loan principal to a maximum of 10 per cent of the principal per year for 10 years after graduation. This would have been very helpful to our graduating students. However, these proposals do not give young Canadians the answer. The answer to my mind is a complete, overarching commitment to post-secondary education.

• (1630)

I have floated this idea before. I believe the government should look seriously at solving the access problem for all academically qualified students who are in financial difficulty by creating a program modeled on the one put in place for veterans returning from World War II. This program was similar to the GI Bill in the

United States. With some innovative thinking, surely we can devise a system whereby access to post-secondary education depends on merit, not financial resources. The proper program could be a significant boost to this country. This requires political commitment, but it is the best investment we can make in the future of this country.

Students today are graduating from colleges and universities with huge debt loads. Debt incurred per year, which includes tuition and living expenses, can approach \$20,000. Help is needed, and not just in putting more money into the loan fund. We must rethink the way we ensure access to post-secondary education for all academically qualified students.

Students do not want a free ride, but they do want an equitable system of debt management that allows them to get an education and repay borrowed money at a reasonable rate when they gain employment. Surely, as a stopgap measure, the government could intervene to put an end to debt collectors hounding students within a few months of graduation. Surely, we can afford a moratorium on loan payments for a period of at least two years after graduation. Students could have that period to get on their feet and begin to earn an income without worrying about debt repayment immediately.

With regard to defence, I must begin by congratulating Defence Minister John McCallum for at least stopping the bleeding off of money from the military. However, as difficult as his job may have been to obtain \$800 million, it falls short of what is really needed. The capital budget must be set high enough to permit buying off the shelf.

As senators who have been involved in the Standing Senate Committee on National Security and Defence know, we must bring our military to a point where it is actually combat capable and equipped properly. This means increasing the defence budgets to approximately \$24 billion by 2010; and we need to increase our Armed Forces personnel to 75,000, even though the minister disagrees. He says he wants a smarter, smaller military. That is fine, but the government has to stop making commitments it is hard to fulfill.

Canadians do not need more stories about our lack of equipment in Afghanistan, where we are returning this summer, or anywhere else where our military may serve. We do not have the service personnel to fulfil our obligations. We need helicopters. It is time to set aside old grudges and bad decisions. Canadians know that the election promise to write "zero helicopters," made for cheap political gain in 1993, was wrong. Our military personnel have been at risk because of this decision.

In this budget, the government should have made a real commitment to defence, and it did not. There needs to be a commitment to resource the military to insure adequate strength levels and the funding of quality-of-life initiatives for our Armed Forces personnel and their families. While the budget goes in the right direction, it does not go nearly far enough to make up for the years of neglect, the years of ravaging the defence budget to pay for other initiatives or to reduce the deficit.

This government, in its failure to support our traditional allies, has brought Canada's place in the world to an all-time low. We can do better than this, and we should be doing better. Canadians deserve better. The time has come to carry out a thorough review of our foreign policy, and then follow it by a review of defence policy. It is time to get serious about Canada's role at home and abroad.

Canadians also deserve better health care. I thought the days of starving our health care system were over, but apparently not. Of the monies set out in the budget, \$3.9 billion is old money, previously announced. As well, the new money of \$13.4 billion is spread out over three years. This is \$1.6 billion short of the amount recommended by the Romanow report and does not satisfy the report of the Standing Senate Committee on Social Affairs, Science and Technology, either.

Between 1993 and 2001, Liberal budgets cut \$15 billion from the transfer payments to the provinces. There is a lot to make up as we move forward in this decade. The federal grant contribution, percentage-wise, is significantly lower than it was just a few years ago. There have been two studies done in this area in recent months. I would have thought the government would at least use this budget to consider them carefully, not just ignore them.

Finally, I want to turn my attention to the economic plight of our cities. Again, this is an area where the Liberal government, albeit the Liberal caucus, completed a study that focussed on a new deal for urban centres — the centres that have become economic engines of this country. What happened? The budget provides for an additional \$3 billion in infrastructure support over the next 10 years. This money is to be shared by municipalities across the country. It is insulting to the needs of our cities when one considers that only \$100 million is available in fiscal 2003-04 and \$150 million in 2004-05. Realistically, this hardly builds more than a highway interchange per year in one city in this country.

Our urban municipalities need a new deal. They need recognition in a meaningful way if Canada is to be competitive in the world. The budget fails our major population centres. Surely we can do better than this. Surely the better approach is to pick two or three years and do a thorough, complete job. That is my suggestion for building a budget: Identify the most pressing needs and address them; do not engage in this shotgun, Band-Aid approach.

Honourable senators, I look forward to hearing other comments on the budget as the debate continues.

On motion of Senator Stratton, for Senator Robertson, debate adjourned.

UKRAINIAN FAMINE/GENOCIDE

MOTION REQUESTING GOVERNMENT RECOGNITION—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Andreychuk, seconded by the Honourable Senator Stratton:

That this House calls upon the Government of Canada:

(a) to recognize the Ukrainian Famine/Genocide of 1932-33 and to condemn any attempt to deny or distort this historical truth as being anything less than a genocide;

(b) to designate the fourth Saturday in November of every year throughout Canada as a day of remembrance of the more than seven million Ukrainians who fell victim to the Ukrainian Famine/Genocide 1932-33; and

(c) to call on all Canadians, particularly historians, educators and parliamentarians, to include the true facts of the Ukrainian Famine/Genocide of 1932-33 in the records of Canada and in future educational material.

Given that the Genocide of Ukrainians (now commonly referred to as the Ukrainian Famine/Genocide of 1932-33 and referred to as such in this Motion) engineered and executed by the Soviet regime under Stalin to destroy all opposition to its imperialist policies, caused the deaths of over seven million Ukrainians in 1932 and 1933;

That on November 26, 1998, the President of Ukraine issued a Presidential Decree establishing that the fourth Saturday in November be a National Day of Remembrance for the victims of this mass atrocity;

That the fourth Saturday in November has been recognized by Ukrainian communities throughout the world as a day to remember the victims of the Ukrainian Famine/Genocide of 1932-33 and to promote the fundamental freedoms of a democratic society;

That it is recognized that information about the Ukrainian Famine/Genocide of 1932-33 was suppressed, distorted, or wiped out by Soviet authorities;

That it is only now that some proper and accurate information is emerging from the former Soviet Union about the Ukrainian Famine/Genocide of 1932-33;

That many survivors of the Ukrainian Famine/Genocide of 1932-33 have immigrated to Canada and contributed to its positive development;

That Canada condemns all war crimes, crimes against humanity and genocides;

And that Canadians cherish and defend human rights, and value the diversity and multicultural nature of Canadian society.—(*Honourable Senator Andreychuk*).

Hon. A. Raynell Andreychuk: Honourable senators, this year, 2003, marks the 70th anniversary of the Ukraine Famine/Genocide of 1932-33. Joseph Stalin's collectivization program was a process that culminated in a man-made famine in one of the world's richest and most fertile agricultural regions. Estimations are only now being calculated as to the millions who lost their lives, mainly in the Ukraine but also in North Caucasus, Kazakhstan and Russia.

to the West in exchange for hard currency with which the Soviet Union purchased the machinery required to industrialize the nascent communist experiment.

A few facts highlighting the conditions under which victims of the famine had to live offer at least a small insight as to the misery that they suffered.

Starving people who attempted to feed themselves with food they had grown themselves and that had now become state property were considered thieves and risked either death before a firing squad or confiscation of all their property. Armed agents of the Soviet forces guarded fields from all those who were fighting starvation. Only people with permission to travel could purchase train tickets, thus rendering flight from famine so much more of a remote possibility.

Those who had the responsibility of executing the planned famine/genocide issued a decree whereby the word "holod," meaning hunger or famine in the Ukrainian language, was considered counter-revolutionary. By the time the famine/genocide finished taking its toll, approximately one fifth of Ukraine's rural population had perished in approximately one year.

As this atrocity continued swiftly and horrifically, few outside the Soviet Union knew or cared to know about it. One voice, Malcolm Muggeridge, a British journalist who at the time was a dedicated socialist, upon hearing of starvation in the Ukraine, bought a ticket from Moscow and travelled to Ukraine. What he saw terminated his affair with communism. He wrote:

I saw something of the battle that is going on between the government and peasants. On the one side millions of starving peasants, their bodies often swollen from lack of food; on the other, soldier members of the GPU carrying out instruction of dictatorship of the proletariat. They had shot or exiled thousands of peasants, sometimes whole villages, they had reduced some of the most fertile land in whole world to melancholy desert...

George Orwell also complained about the events of the Ukraine Famine, involving the death of millions of people, escaping the attention of the "large and influential body of Western thought."

Some, it could be said, refused to see the real issues in their haste to examine a new emerging Soviet doctrine. Most, I suspect, had no access as the forces of the Soviet Regime put down dissent and controlled movement, expression, thought and life in the Soviet Union. In fact, for all the years of the Soviet Union, the famine was an exercise of deflection, deception and concealment about this genocide against the Ukrainian people.

Slowly emerging from the long and dark shadow of the years of the Soviet Union, the Government of the Ukraine, in its newly independent status, on November 24, 2002, finally heard its president state:

• (1640)

As American scholar and historian Robert Conquest stated in his book, *The Harvest of Sorrow*:

...in 1932-33 came what might be described as a terror-famine inflicted on the collectivized peasants of the Ukraine and the largely Ukraine Kuban (together with the Don and Volga areas) by the methods of setting for them grain quotas far above the possible, removing every handful of food and preventing help from outside — even from other areas of the USSR — from reaching the starving. This action, even more destructive of life than those of 1929-1932, was accompanied by a wide ranging attack on all Ukrainian cultural and intellectual centres and leaders and on the Ukrainian churches.

He went on to say:

Though confined to a single state, the number dying in Stalin's war against the peasants was higher than the total deaths for all countries in World War I. There were differences: in the Soviet case, for practical purposes only one side was armed and the casualties (as might be expected) were almost all on the other side. They included, moreover, women, children and the old.

At the height of the famine/genocide of 1932-33, Ukrainian peasants were dying of hunger at the rate of 17 persons per minute, 1,000 persons per hour, and 25,000 persons per day, while the Soviet regime was dumping 1.7 million tons of grain on Western markets.

By way of a reminder, in 1929, Stalin sought to industrialize the newly created Soviet Union as rapidly as possible. Funds had to be acquired in order to purchase the industrial machinery and equipment required to build the new communist empire and till the soil of the collective farms that were to feed its inhabitants.

At the same time, a way had to be found to overcome resistance to farm collectivization, which found particular strength in the Ukrainian Soviet Republic. The legacy of the Soviet master plan in dealing with this opposition to collective farming and, more generally, to Ukrainian expression of self-identity has left a terrible scar on the history of the Soviet Union.

Thousands of Soviet agents were dispatched to Ukraine in order to confiscate grain and food products from the productive peasant farmers, known as the kulaks. These items were sold

Holodomor (The Famine/Genocide of 1932-33) and political repressions planned and carried out by the communist regime put under threat the very existence of our nation.

It is no exaggeration. Holodomor became a national catastrophe. One fifth of Ukraine's rural population died in 1932-33. People died by villages. Even today Ukraine can feel demographic, socio-economic, historic and cultural consequences of those murderous deeds....

We have to admit — it was genocide. Having a clear purpose, a meticulously planned genocide against Ukrainian people.

Four days later on November 28, 2002, the Parliament of Ukraine echoed those words. Further, on March 17, 2003, in Geneva, at the Fifty-ninth Session of the United Nations Commission on Human Rights, Mr. Volodymyr Yel'chenko, State Secretary for Foreign Affairs of Ukraine, stated:

The induced famine of 1932-33 was the act of genocide against the Ukrainian people that took lives of more than 7 million Ukrainians. Organized by the totalitarian Soviet regime in 1932-33 and aimed at suppressing people in the regions that were opposed to forced collectivization, it was one of the most tragic events in our modern history.

The fact of induced famine in Ukraine was carefully concealed at that time. Elaborate steps had been taken to deny its existence or diminish its consequences up till Ukraine's independence. Still, much remains to be done to increase the global awareness of that event.

At the time the world failed to respond to that tragedy. Today we are obliged to honour the memory of its victims in order to be able to respond to other acts of genocide ever, in the future.

The Verkhovna Rada, the Parliament of Ukraine, has taken a series of steps to honour the memory of the victims of the 1932-33 famine/genocide. They have set a task for themselves to honour the memory of the victims and to guarantee that this genocidal famine is not forgotten by generations to come. In their recommendations, of which there are many, they state:

Participants of the parliamentary hearings held on February 12, 2003, on commemorating the 70th anniversary of the 1932-33 famine genocide and honouring the memory of the millions of its victims note that the Communist Party and the most senior government officials of the Soviet Union had been officially denying for many decades the tragedy of the 1932-33 genocidal famine. Information on its reasons, artificial nature and its scale had been concealed not only from the international community but also from several generations of compatriots.

They go on to indicate that it is only with independence that the seal on official secrecy surrounding these events was broken, and they have set for themselves and their government a series of actions.

• (1650)

Honourable senators, in proposing the motion under discussion, the Senate would seek to assign the Ukraine Famine/Genocide of 1932-33 its rightful place in the annals of history. In proposing this motion, the Senate would seek to commemorate the lives of all those millions of people who were so callously and cynically sacrificed in the name of an illusory ideal that could have known no greater betrayal than the means employed in trying to reach it.

Canada has taken great strides to condemn all war crimes, crimes against humanity and genocides, and Canadians, as a society, cherish and defend human rights and value the diversity and multicultural nature of Canadian society. We must also join with the many survivors of the Ukraine Famine/Genocide who have immigrated to Canada and contributed to its positive development. The record is now emerging and Canada should share in acknowledging the famine/genocide and in correcting our knowledge of this horrific event by taking the step of approving this motion. I urge you, honourable senators, to do so.

On motion of Senator Carstairs, for Senator Robichaud, debate adjourned.

[Translation]

HUMAN RIGHTS

COMMITTEE AUTHORIZED TO MEET DURING ADJOURNMENT OF THE SENATE

Hon. Shirley Mahen, pursuant to notice of June 16, 2003, moved:

That pursuant to rule 95(3)(a), the Standing Senate Committee on Human Rights be authorized to sit on Mondays, beginning September 15, 2003, on its study of the examination of key legal issues affecting the subject of on-reserve matrimonial real property on the breakdown of a marriage or common law relationship, even though the Senate may then stand adjourned.

Motion agreed to.

[English]

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING ADJOURNMENT OF THE SENATE—DEBATE ADJOURNED

Hon. Tommy Banks, pursuant to notice of June 16, 2003, moved:

That the Standing Senate Committee on Energy, the Environment and Natural Resources be empowered, in accordance with rule 95(3)(a), to sit during the traditional summer adjournment of 2003, even though the Senate may then be adjourned for a period exceeding one week, until such time as the Senate is ordered to return.

He said: Honourable senators, members of this committee, in pursuing this study, wish to work during the summertime. I suppose that we are the characters that have recently been portrayed in a cartoon captioned, "Senators Gone Bad," in which a senator is pictured saying, "I want to work." We are guilty of that. Committee members wish to meet at some time during the summer to continue their consideration of a report, which the committee has undertaken according to its terms of reference, so that it might be moved along and dispensed with more quickly. It is the wish of the members of the committee to do so.

I remind honourable senators of an answer that I gave to Senator Stratton earlier today in respect of the committee. The committee does not believe, and I do not believe, and would not convene a meeting of the committee that was comprised of a number of substitutes; that we would want regular, assigned members of the committee to be present; and that the only dates that would be chosen for these meetings would be those when a quorum of members of both sides of the Senate could be in place. I ask leave to sit at the request of the committee, whose servant I am. We wish to work, honourable senators.

[Translation]

Hon. Lise Bacon: Honourable senators, I would not want to prevent the honourable senators from working during the summer. Still, I would like to remind them that there are people who work for the Senate and who need to take their holidays. We owe them some respect for their private lives.

These people usually take their holidays in the summer months. I repeat. The work senators do in the committees must not prevent Senate staff from taking their holidays. There are people who have a life outside the Senate. If they can take holidays during the summer, let us give them a chance to have a life outside the Senate.

There are employees who work all year long. They help the senators perform their duties and they provide support. They need to take holidays. Therefore, if sitting during the summer months prevents Senate employees from taking their holidays, they must be given compensation for the extra hours they put in. In addition to the human side of things, as the person responsible for the budget, I would like to remind the honourable senators that expenditures for the business of the Senate also have to be considered.

[English]

Senator Banks: Honourable senators, I am talking about a meeting or two between the time that this house rises and September 16. Would the Honourable Senator Bacon agree with me that it is unlikely that any employees would be taking holidays that would extend to 12 weeks? Would she agree that if we were to find accommodation for that, we could probably find two to four days between the time that this house rises and September 16, during which we would not interfere with the holidays of the staff required for two or so days of meetings?

[Translation]

Senator Bacon: Honourable senators, I simply wanted to remind you that there are employees who need holidays. We

[Senator Banks]

must grant them respect; I think that is the least we can do. These employees are dedicated; they are always there when we need them.

[English]

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I want to add that a committee is not an independent entity. Rather, it is a creature of the Senate, answerable to all senators, and meetings are to be held with fair notice since all may attend and participate. I would be more sympathetic if those committees requesting leave to sit during the summer would provide the house with specific dates. The chairmen of these committees proposing similar motions must select dates convenient to the members, to the translators, to the clerks and to their families. Those people have obviously made plans for the summer and it would be extremely unfair for a committee to decide that its work, valid though it may be, could interfere with the well-earned rest of our Senate staff, who are so helpful and cooperative when the house is sitting.

• (1700)

For the moment, I will not support this motion. If Senator Banks and others who have similar motions would come back and give us specific dates that meet the agreement of both sides of the committees and are agreeable to their immediate staff, then I, for one, would be more sympathetic to supporting such a motion. As presently worded, however, this motion does not have my support.

On motion of Senator Kinsella, debate adjourned.

MERCHANT NAVY VETERANS DAY BILL

SECOND READING

Leave having been given to revert to Commons Public Bills:

On the Order:

Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Biron for the second reading of Bill C-411, to establish Merchant Navy Veterans Day.

Hon. Joseph A. Day: Honourable senators, I will not repeat the statistics indicated by my honourable friend, but the bill we are dealing with, Bill C-441, a Commons public bill, deals with the proposed creation of a merchant navy veterans day, September 3.

Honourable senators, the road to recognition by the merchant navy has been long and difficult. Approximately 15 years ago, in Sydney, Cape Breton, and Nova Scotia, a group got together to preserve some of the crumbling World War II fortifications. That resulted in a nationally recognized military war museum, namely Fort Petrie. That also gave impetus to the merchant navy to carry on with some other initiatives.

Honourable senators, the merchant navy stepped up during the war and performed an extremely important support function. Merchant navy ships delivered troops, ammunition, goods, tanks, clothing, boots, airplanes, fuel, raw materials and so on to our forces in Europe.

Some of the merchant seamen were only 14 years of age, while many were too old for the regular Armed Forces but continued to serve through the merchant navy. Others joined the merchant navy rather than the regular forces and were accused of being draft dodgers. This was a myth, and if one looks at the tremendous and horrible casualty statistics, one would know that that is a myth. If a ship was sunk, the survival rate for the crew was less than 50 per cent. One in seven mariners serving aboard merchant ships in World War II died in the line of duty. At the end of the war, a staggering 25,000 merchant seamen deaths were attributable to enemy action. They were British and Canadian sailors.

The merchant navy has moved to get recognition, and their battle for recognition has been going on for at least five decades. In 1992, the merchant navy veterans were finally given veteran status, but their road to recognition did not end there because they were given a different class of status from other military veterans. They made submissions to the Senate's Subcommittee on Veterans Affairs, and honourable senators will recall a hunger strike in 1998 that took place here in Ottawa by a number of veterans trying to bring attention to their plight.

I am pleased to advise honourable senators that in the year 2000, the then Minister of Veterans Affairs and now the Honourable Senator George Baker took the initiative and announced a \$50 million tax-free package for Canadian merchant navy veterans and surviving spouses. That was the beginning of the recognition that they deserved.

In 2001, a year later, the then Minister of Veterans Affairs and another former member of the Senate, Ron Duhamel, announced an additional \$34 million lump sum payment to the Canadian merchant navy veterans.

Honourable senators, this is another step in the long road for the merchant navy and veterans. This bill, although very short in form, asks that a day be set aside and be known as merchant navy veterans day. The day proposed is September 3 of each year because that particular date was the day that war was declared in 1939. The first casualty of the Second World War was a lady by

the name of Hannah Baird, who has been recognized by Veterans Affairs. She was returning from England on a ship, and that ship was sunk. It was the SS *Athenia*, and it carried many civilian passengers. It is a story not unlike the passenger ship that was sunk in the First World War. The ship went down, and Hannah Baird, who was working on board that ship, was the first Canadian person to die at the hands of the enemy during the Second World War, according to Veterans Affairs Canada. That was September 3, 1939, and that is why that particular date is chosen.

I hope all honourable senators will support this bill at second reading.

[Translation]

Hon. Roch Bolduc: Honourable senators, I support this bill. One of my uncles died in 1943 on board the *Lady Hawkins*. It was the third time the ship had been sunk. He was the 2nd Officer Deep Sea, and a young man of 25. The ship was carrying equipment from New York to England. The first two times the ship had been sunk, he had managed to survive, but he died the third time.

The Hon. the Speaker pro tempore: Are honourable senators ready for the question?

Some Hon. Senators: Yes.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the third time?

On motion of Senator Day, bill referred to the Senate Standing Committee on National Security and Defence.

The Senate adjourned until Wednesday, June 18, 2003 at 1:30 p.m.

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Debates of the Senate

2nd SESSION • 37th PARLIAMENT • VOLUME 140 • NUMBER 71

OFFICIAL REPORT
(HANSARD)

Wednesday, June 18, 2003

THE HONOURABLE DAN HAYS
SPEAKER



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(Daily index of proceedings appears at back of this issue).

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THE SENATE

Wednesday, June 18, 2003

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

TRIBUTES

THE HONOURABLE RAYMOND C. SETLAKWE, C.M.

The Hon. the Speaker: Honourable senators, I received a notice earlier today from the Leader of the Government in the Senate who requests, pursuant to rule 22(10), that the time provided for the consideration of Senators' Statements be extended today for the purpose of paying tribute to the Honourable Senator Setlakwe, who will retire from the Senate on July 3, 2003.

We have new rules in this area. I would remind honourable senators that, pursuant to our rules, each senator will be allowed three minutes to speak, and no senator may speak more than once. The time for tributes shall not exceed 15 minutes; however, that 15 minutes does not include Senator Setlakwe's response. Our rules are quite strict on the extension of time. I already have a list of eight senators who have indicated that they wish to speak, so I may not be able to recognize all senators who wish to speak.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I rise today to offer my very best wishes, and those of his caucus, to our colleague Senator Setlakwe, who embarks on his retirement in a few weeks.

Many of you know of Senator Setlakwe's achievements, but you may not know that they are based on strong family values instilled by his grandfather Aziz. Upon the senior Setlakwe's arrival to Canada, he changed the family name to remember his brothers back home, and he began a successful family business.

[Translation]

Senator Setlakwe devoted his time and energy to many organizations, including hospitals and universities. His student years at Bishop's University, during which he fought a reluctant administration in order to establish a Young Liberals Club, served as a precursor to his career as a lawyer and politician.

Those of us in the Liberal Party of Canada have been lucky to benefit from his support over the years, but the greatest legacy he leaves is the precious support he has given to many people in his community, which has earned him the Order of Canada.

[English]

We congratulate Senator Setlakwe on receiving a Doctor of Civil Law *honoris causa* from Bishop's University two weekends

ago, and we wish him every happiness in his future endeavours. The warmth of his personality and his love of fun and fellowship will be much missed in this place.

• (1340)

[Translation]

Hon. Jean-Claude Rivest: Honourable senators, on behalf of our caucus, I would like to pay tribute to our colleague and friend, Raymond Setlakwe. There is no one who is more of a Liberal than Senator Setlakwe; it is not humanly possible. For many years, he has been committed to working for his fellow citizens, for the Liberal Party of Canada and for the Liberal Party of Quebec. He has served the people of his region, the Asbestos region of Quebec, admirably.

As a Quebecker and Canadian, he championed a certain vision of Canadian federalism, a vision he tried to convince me was right. I am sure Raymond saw me as a delinquent federalist, like many other federalists from Quebec. He champions a strong, solid federalism, one that is balanced from one end of the country to the other by celebrating the principles on which the Canadian Charter of Rights and Freedoms was based. Under the charter, all citizens of Canada are equal. Raymond Setlakwe's position is both noble and dignified, and it has been his life's work.

Being such a Liberal, he is particularly happy now because in his region there is a Liberal member elected to the House of Commons and a Liberal MNA in Quebec's National Assembly. Even more recently, last week, the new mayor of Thetford Mines was elected, also a good Liberal. Given that political pluralism is a Liberal value, I am sure that in his free time, our colleague will help to promote this pluralism by working for the re-election campaign of the Progressive Conservative member for Richmond.

We thank him and congratulate him. We wish him a happy retirement. Canadians, Quebeckers, the people of the Asbestos region and his colleagues all wish him the best in the years to come. Thank you, Raymond!

[English]

Hon. B. Alasdair Graham: Honourable senators, the southeast corner of Quebec is an area rich in history and spectacular scenic beauty.

[Translation]

This area of enchantment is known as the Eastern Townships. Its landscape has been shaped by historical immigrations, and it never fails to enchant the visitors of today.

[English]

The Municipalité d'Irlande is home to many venerable sites. One of the most significant and the most beautiful is the Holy Trinity Church in picturesque Maple Grove.

Last May, the first phase of restoration work commenced with the unveiling of the church's splendid stained glass windows, which have been re-leaded and reinstalled. As one would expect, the prime mover behind this project was our own Senator Raymond Setlakwe, who put his prodigious energies to work along with local heritage organizations, with support from Heritage Canada.

Whether it is the Bishops or Laval University Foundations, the Montreal Heart Institute, the Thetford Mines Hospital Foundation, or fundraising for the CEGEP de Thetford Mines, Senator Setlakwe has proven to be a devoted son of a region rich in some of the greatest political names to grace Canadian and Quebec politics.

[Translation]

I am thinking of the likes of Sir Wilfrid Laurier and Louis Saint-Laurent.

[English]

All honourable senators are aware of Senator Setlakwe's deep interest in his Armenian heritage, a devotion he shared with his well-known cousins, Malak and Yousef Karsh.

The Senate's recognition of the Armenian genocide was adopted with some considerable emotion last June. I remember listening carefully to the important statement made at that time by Senator Setlakwe. "Humanity is far from being safe from a repetition of this massacre," he said. "Therefore, it is all the more important that the genocide be recognized. Africa and many other places in the world are threatened by this sort of barbaric behaviour."

While the Armenian history may seem, in many ways, to be far from the *Municipalité d'Irland* and *Maple Grove*, both of these communities spring from the passion of outstanding Canadians like Senator Setlakwe, who are truly dedicated to the spirit of all those hard-working immigrants who made this country what it is today.

Senator Setlakwe's time, in this place, has been all too short, but the chamber as a whole and the committees on which he served have been the beneficiaries of not only his wonderful good humour but also his wise counsel and wide experience in the field of domestic and international business.

The Hon. the Speaker: Senator Graham, I am sorry to interrupt, but I must advise that your time has expired.

[Translation]

Hon. Yves Morin: Honourable senators, I did not know Senator Setlakwe before coming to the Senate two years ago. He quickly became one of my best friends. How can a person not be friends with someone who tells you, and others: "Yves, you are the only friend I have left."

Since we both come from Eastern Quebec, I too would like to stress his great contribution to his birthplace, Thetford Mines.

The son of immigrants, he soon became instrumental in the economic and social development of the Asbestos region.

[English]

Senator Setlakwe, as honourable senators know, is an accomplished athlete. He has regularly performed a feat that even Senator Mahovlich cannot repeat. He dives every morning, from May to October, into the frigid waters of Lake Aylmer. What is unusual is that he does this in the nude. As a consequence of this regime, the manager of the local optics store has been surprised to sell so many binoculars to the ladies of Lake Aylmer.

[Translation]

Seriously, I must say that Senator Setlakwe is a loyal and generous friend. The Senate will not be the same without him. We are very sorry to see him leave.

He can be assured of our friendship and gratitude. We wish him a healthy and happy retirement, with Yvette, his four children, his six grandchildren, and — a Senate record, this — his great-grandson, Philippe.

[English]

Hon. Richard H. Kroft: Honourable senators, our colleague Raymond Setlakwe came to the Senate rich in human experience. He has generously shared with all of us the wisdom born of that experience. Through his stories, speeches and poetry, he has conveyed both his views on life and his remarkable enjoyment of it. His love of politics is at the centre of his being. It is impossible to say whether he has been devoted to politics because of what he is, or whether he is the person he is because of politics. No doubt, both are true.

Raymond has a passion for engagement in the events of his time and for the enjoyment of people who are at the centre of those events. He has a deep caring for the well-being of his people and is dedicated to the defence of their interests.

Who are his people? They are anyone who attracts the attention and interests of this man of many parts. They are those with whom he shares his complex and fascinating heritage. They are the people of his city and his region, in whose service he has worked for decades. They are the people he sees as not getting a fair break from society. They are small business people with a problem, or victims of social, natural or economic disaster.

Raymond is a man of the world, an extraordinarily well-travelled and sophisticated business person, and, of the highest importance, he is a dedicated student and gifted practitioner of the art of golf.

He is a devoted family man, and for good reason. To know Yvette is to understand a great deal of Raymond's success.

I have come to know Raymond well in a short time. I have come to appreciate him as a passionate Liberal and as a compassionate friend. Raymond has lit up this place with his joy in being part of our unique community. I believe he will miss us; I know we will miss him.

• (1350)

Hon. Isobel Finnerty: Honourable senators, I salute Raymond Setlakwe as one political organizer to another. Much has been said and will be said about Senator Setlakwe's public service, business acumen and success, and about his fundraising expertise on behalf of educational institutions and medical research. We, in Ontario and elsewhere in Canada, know that in Quebec, at least, Senator Setlakwe's reputation in many fields is legendary.

During the last decade, Senator Setlakwe and I have both been involved, at the grassroots level, in our national political party, doing all of those things across our respective provinces that we could do to promote our party and to provide the organizational framework for our party's repeated electoral successes.

I salute Senator Setlakwe's energetic commitment to Canada at a time of transition in Quebec, a time when extreme nationalism has been successfully challenged by common sense. The new government in Quebec owes its arrival to many factors, not least of which is the ongoing work of patriots like Senator Setlakwe.

I extend my best wishes to him and his family in all their future endeavours. We will miss him and his humour very much.

[Translation]

Hon. Lise Bacon: Honourable senators, I was Senator Setlakwe's sponsor when he arrived in the Senate, so I, too, would like to pay tribute to him. Senator Setlakwe has always been a man who gave freely of his time to benefit his community. As well as being a great entrepreneur, he has also been a solid and committed citizen. There is no doubt that this is a great Canadian, and one whose interest in politics was born of his passion and commitment to this country.

Honourable senator, friend and colleague, I wish you a great retirement, with all my heart. Your lovely wife will certainly keep you busy. I hope you will have the opportunity to come back and visit us, because we will miss you. I am sure you will continue to be very active within your community and full of energy for many years to come.

[English]

The Hon. the Speaker: Honourable senators, before calling on Senator Setlakwe, who will have unlimited time, I wish to draw your attention to the presence, in our gallery, of his wife, Yvette, two of their sons and other members of their family, and friends. We welcome you to the Senate of Canada.

Hon. Senators: Hear, hear!

[Translation]

Hon. Raymond C. Setlakwe: Honourable senators, first I want to express my gratitude for the honour and privilege bestowed on me by the Right Honourable Jean Chrétien when he appointed me to the Senate of Canada; I have endeavoured to do my duty to the best of my abilities. I greatly admire that man. His character and his dedication to the Canadian cause have always impressed me.

Recently, on the CBC, I heard someone say that Canadian democracy lacked two things: a fascist party on the right and a Marxist-Leninist party on the left. This statement is surprising in that it does not consider the fact that the strength and greatness of this country are attributable to several ideas shared by the various political parties and to the many things that unite us, not to anything that would divide us.

I am deeply moved by the tributes from both sides of the House, and I thank the honourable senators for them.

The most significant work I did in the Senate was in the three committees on which I served. I would first like to mention the Standing Senate Committee on Official Languages, and I could not do so without paying special tribute to the Honourable Jean-Robert Gauthier, who has always defended the French language in an eloquent and steadfast manner.

Some Hon. Senators: Hear, hear!

Senator Setlakwe: Honourable senator, congratulations and thank you.

[English]

I have also served on two other committees, the Banking Committee, which was presided over by my friend Senator Kolber, and the Foreign Affairs Committee, which was presided over by my other friend, Senator Stollery. Whatever contributions I have made to those two committees were equalled, in a certain respect, by the tremendous knowledge that I have acquired by listening to the witnesses, listening to the members of the committee who have enriched my experience in this chamber. The three years that I have spent among you are proof positive that three years' experience can be equal to a university degree.

In *Iolanthe*, Lord Mountararat sings about the importance of leaving the House of Lords untouched because of its importance. He says he would like it to be left untouched because, even though it does nothing in particular, it does it very well.

After what I have just said to honourable senators, I do not think any of you can relate that to what occurs in this chamber. My experience here has been to the contrary, even though Bagehot said that, if one wanted a cure for admiring the House of Lords, all one had to do was to go and look at it. That is certainly not the case here today.

In any event, my time here has been rendered much easier by the services given.

[Senator Kroft]

[Translation]

I would like to pay tribute to those who are frequently taken for granted: the people who work for the security services, for human resources, for finance, for the journals and the debates, for the communications services, for installation services, for maintenance, as well as the various tradespersons, drivers, messengers and pages. I want to offer my sincere thanks to all these individuals for their services during my time here in the Senate.

[English]

I will close with this. Even though I have unlimited time, I know that the work in progress is also important. Recently, I read that Sophocles once said that one should never speak of the splendour of the day until the evening. At the evening of my political life perhaps, I would like to say that, now, I can speak of the splendour of the last three years that I have spent among you. You have enriched those three years. I am now at the evening of my life and am thankful to all of you for having made it so.

Hon. Senators: Hear, hear!

[Translation]

ROUTINE PROCEEDINGS

LIBRARY OF PARLIAMENT

SECOND REPORT OF JOINT COMMITTEE TABLED

Hon. Yves Morin: Honourable senators, I have the honour to table the second report of the Standing Joint Committee on the Library of Parliament.

[English]

STUDY ON IMPACT OF CLIMATE CHANGE

REPORT OF AGRICULTURE AND FORESTRY COMMITTEE TABLED

Hon. Donald H. Oliver: Honourable senators, I have the honour to table the fifth report of the Standing Senate Committee on Agriculture and Forestry, which deals with the impact of climate change on Canada's agricultural, forest and rural communities and the potential adaptation options focusing on primary production practices, technologies, ecosystems and other related areas.

On motion of Senate Oliver, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

MERCHANT NAVY VETERANS DAY BILL

REPORT OF COMMITTEE

Hon. J. Michael Forrestall, Deputy Chair of the Standing Senate Committee on National Security and Defence, presented the following report:

Wednesday, June 18, 2003

The Standing Senate Committee on National Security and Defence has the honour to present its

THIRTEENTH REPORT

Your Committee, to which was referred Bill C-411, *An Act to establish Merchant Navy Veterans Day*, has, in obedience to the Order of Reference of Tuesday, June 17, 2003, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

J. MICHAEL FORRESTALL
Deputy Chair

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Forrestall, with leave of the Senate and notwithstanding rule 58(1)(b), bill placed on the Orders of the Day for third reading later this day.

[Translation]

NATIONAL FINANCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING ADJOURNMENT OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I give notice that at the next sitting of the Senate, I will move:

That, pursuant to rule 95(3), the Standing Senate Committee on National Finance be authorized to meet during the period September 1 to 16, 2003, even though the Senate may then be adjourned for a period exceeding a week.

CONSTITUTION ACT, 1867

NOTICE OF MOTION TO AMEND SECTION 16

Hon. Jean-Robert Gauthier: Honourable senators, I give notice that on Friday next, the 20th day of June 2003, I will move that:

Whereas section 43 of the *Constitution Act, 1982* provides that an amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province to which the amendment applies;

Now therefore the Senate resolves that an amendment to the Constitution of Canada be authorized to be made by proclamation issued by Her Excellency the Governor General under the Great Seal of Canada in accordance with the schedule hereto.

SCHEDULE AMENDMENT TO THE CONSTITUTION OF CANADA

1. Section 16 of the *Constitution Act, 1867* is replaced by the following:

"16. (1) Until the Queen otherwise directs, the seat of government of Canada shall be Ottawa.

(2) In the seat of government of Canada, any member of the public has the right to communicate with, and to receive available services from, the government of Ontario and the City of Ottawa in English or French."

CITATION

2. This Amendment may be cited as the "Constitution Amendment, [year of proclamation] (Seat of government of Canada)".

[English]

QUESTION PERIOD

NATIONAL DEFENCE

REQUEST FOR INQUIRY INTO ACCOUNTING AND MANAGEMENT PRACTICES

Hon. Michael A. Meighen: Honourable senators, a report in today's *Ottawa Citizen* says:

The Canadian Forces does not know how many reserve soldiers it has...

The Honourable John Fraser, chair of the minister's monitoring committee, also concluded that the military cannot precisely trace how the money allocated to the reserves has been spent. He noted too that bureaucratic delays of up to two months in processing the applications of potential recruits are causing recruits to give up waiting. Finally, he acknowledged that the underfunding of the military may be forcing the regular army to use resources meant for the reserves.

In the light of these very serious claims, will the government conduct an inquiry into the accounting and management practices of the military regarding the issues highlighted in Mr. Fraser's report?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, there is no need for such an inquiry, but currently, the most accurate way of acquiring information about the number of military personnel or the strength of the military is through the pay system. The number of paycheques may fluctuate throughout the year, but on May 3, approximately 15,600 militia personnel were issued paycheques.

[Senator Gauthier]

DELAYS IN PROCESSING RECRUITMENT APPLICATIONS

Hon. Michael A. Meighen: Honourable senators, would the Leader of the Government in the Senate at least seek to address the delays in the processing of applications of potential recruits, given that these delays are extremely counterproductive to a military that has recently placed a great deal of emphasis on recruitment and retention?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, a vigorous recruiting campaign has been conducted by the Canadian Forces over the past two years. The Chief of the Land Staff, in conjunction with the Land Force Reserve Restructure project management office, will continue to work closely with the committee in preparation of their final report, which is due in November. I think we should wait until we have that report in order to have a better understanding of the land force reserve.

Senator Meighen: Honourable senators, I cannot help but point out to the Leader of the Government in the Senate that, according to no less an authority than Commodore Roger Girouard, the Canadian commander of the multinational task force in the gulf, it will take the under-strength and overworked navy up to a year to recover from its mission in the gulf. Surely, then, recruitment and retention is important, as I think the Leader of the Government in the Senate has acknowledged, and the delays in processing the applications of potential recruits clearly take away from that objective.

Senator Carstairs: Honourable senators, recruitment and retention are very important. However, although we are undergoing a vigorous recruiting campaign, there are delays. We are awaiting a report in November, which report will, I hope, set a path for how we can do this in the future.

• (1410)

REPLACEMENT OF SEA KING HELICOPTERS— OPERATIONAL REQUIREMENTS

Hon. J. Michael Forrestall: Honourable senators, my question is for the Leader of the Government in the Senate.

In the last week, I asked the government, among other things, why the washroom curtain was removed from the new maritime helicopter specifications. The minister responded that the curtain was removed for "safety purposes." In other cases where I have asked questions about the maritime helicopter, I have been told that the reason for reductions in specifications is that we do not need a Cold War helicopter and that technology has advanced.

Can the honourable leader explain why each of the following supposedly Cold War-era technologically obsolete or safety features has been dropped from the specifications: TACAN, or tactical air navigation; slung load weight-measurement device; life rafts reduced to one 10-person life raft; infrared suppression not installed; no infrared filters; removal of one chaff and flare dispenser; and the removal of one torpedo?

If honourable senators wish, I could produce 176 such changes in the MHRS.

Will the minister not now admit that there has been a significant change and that the irony is that the only technically and probably cost-compliant aircraft will be the EH-101?

Hon. Sharon Carstairs (Leader of the Government): We all know the honourable senator's feelings about that particular aircraft; he has made it clear over a number of years.

The reality is that the government is not charged with looking at one aircraft and one aircraft alone. The government is charged with finding the very best aircraft to meet the needs of the Canadian military.

Senator Forrestall: Honourable senators, I have pleaded, for the last 10 years, for the mid-life overhaul of the Aurora. How many Hercules are operational and fully working? I could go on. The maritime replacement aircraft is not my only concern.

I am concerned about a fundamental attitude by government toward ensuring that, when we look at a pilot or a ship's captain in the eye, we do so with a clear conscience and are able to say to them: "Sir, you have the very best this country can offer." That is what I want and what I hope the minister shares.

Senator Carstairs: Honourable senators, I do not think anyone in Canada would want our Armed Forces personnel to be on ships or in aircraft that were unsafe or incapable of performing the jobs they do. That is why we have such pride in our Canadian military.

FINANCE

PENSION PLANS—DIFFERENCE BETWEEN PUBLIC- AND PRIVATE-SECTOR SURPLUSAGE

Hon. David Tkachuk: Honourable senators, the federal government plays two key roles in regard to employment pension plans. First, the government regulates the plans under its jurisdiction; and, second, it sets the tax rules to determine how much employees and employers can contribute, regardless of who is regulating the plan.

A number of years ago, some employers were forced to take contribution holidays because the tax laws do not allow surpluses to exceed 10 per cent of the cost of future benefits. This role was supposed to ensure that pension plans are not used to hide profits. The market peaked and now many of these same plans are in deficit.

The government has now announced that public-sector pension plans — for example, the Ontario Teachers' Pension Plan Board — will be able to build up surpluses of 25 per cent of future benefits, to help cushion the plans when the next bear market hits.

My question to the Leader of the Government in the Senate is this: What is the policy reason for allowing plans that cover public-sector employees to build up a cushion of 25 per cent while only allowing private-sector plans a cushion of 10 per cent?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I do not know the answer, but I will seek to obtain that information for the honourable senator.

Senator Tkachuk: Honourable senators, is this 10 per cent versus 25 per cent split the result of the thinking of the Minister of Finance, that the only reason businesses have pension plans is to hide profits?

Senator Carstairs: Absolutely not.

Senator Tkachuk: I take it the minister knows Mr. Manley's thinking on this matter, but does not know the answer to the first question.

Of the 50 largest public companies with pension plans, more than two-thirds face a plan deficit. If any of these businesses fail, their employees will not get the pension benefits they have been promised. Aside from studies, will the government leader provide the Senate with a full summary of any and all concrete measures the government is taking to ensure that there is not a repeat of this kind of pension plan meltdown?

Senator Carstairs: As the honourable senator knows, the organization responsible for pension plans has indicated that it is looking at a number of pension plans because there is concern that those pension plans may not be there for their employees when those employees need it.

When that review is completed, I am sure they will let us know in public, because that is how they respond, as to any future measures they think these pension plans should take.

Senator Tkachuk: The reason I am asking for an answer is that I know Senator Forrestall has been asking his questions on helicopters for 10 years. I do not want to wait that long for a response in regard to pension plans.

Perhaps the minister could be more definitive. When might the government be issuing a report on how it will deal with pension plans in the future?

Senator Carstairs: Honourable senators, when the pension plan board responds, it will release the related documentation, as it always does, to the public.

JUSTICE

SAME-SEX MARRIAGE

Hon. Douglas Roche: Honourable senators, my question is to the Leader of the Government in the Senate.

Yesterday, the government said it would move to recognize same-sex marriages in law. This issue is very troubling to many Canadians who fear the undermining of an institution so necessary to the well-being of Canadians. An end to discrimination against homosexuals should not equal an end to the existing definition of marriage as the union of one man and one woman. The time-honoured institution of marriage ought not to be impugned as discriminatory.

Why is the government capitulating to the decision of a provincial court and rushing to prepare legislation to legalize same-sex marriage in the absence of anything like a consensus in the country?

Why did the government not appeal the provincial decisions to the Supreme Court to get an authoritative view as to whether Charter rights are impeded before taking legislative action?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, it is not just the ruling of a provincial court, as the honourable senator has put it; it is the ruling of the chief courts of the provinces of Ontario, Quebec and British Columbia. They have all ruled on this matter. It seems clear how other courts will rule on this matter.

What the government has done is indicate that it will not appeal the decision of the court in Ontario, that it will propose legislation that will protect the right of churches and religious organizations to sanctify marriage as they define it, and that it will send that draft legislation to the Supreme Court of Canada in a reference case in order to ensure that the proposed legislation complies with the Charter.

Senator Roche: Honourable senators, I thank the minister for her response. However, I should like to point out that the provincial courts that ruled in this matter do not speak for all Canadians; there are many Canadians who feel that the Supreme Court, the highest jurisdiction, should have been consulted first.

• (1420)

Today, a group of distinguished Canadians wrote in *The Globe and Mail* that the commitment of Canadians to "fairness, equality and tolerance...will not be served by expropriating and reconfiguring a historic institution" designed to meet the societal needs of opposite-sex conjugal relationships.

Why is the government attempting to redesign an institution older and more fundamental to Canadian society than Parliament itself?

Senator Carstairs: Honourable senators, let us make a semantic distinction here. The honourable senator refers to provincial courts. Certainly, in my province, provincial courts are magistrate courts. This was not a decision of a magistrate court. This was an Ontario Court of Appeal decision. It was the same in the case of the decisions in British Columbia and Quebec, although the courts sometimes go by different names.

In terms of the honourable senator's question with respect to fairness, equality and tolerance, I think the courts have said that the present legislation does not meet those tests of fairness, equality and tolerance. That is why the government is taking the decision that it has made.

Senator Roche: Honourable senators, that returns me to my essential point, which is that it is the Supreme Court of Canada that ought first to have been consulted before legislative action is taken.

Senator Carstairs: Honourable senators, the Government of Canada does not agree with that. The government believes that because of the Ontario Court of Appeal decision, which was instant in terms of its applicability, it had to move as quickly as possible on this matter, to ensure the very fairness, equality and tolerance that the honourable senator made reference to in his previous question.

[Translation]

Hon. Jean-Claude Rivest: Honourable senators, is the minister aware that in Quebec the National Assembly protected the traditional institution of marriage as the union of a man and a woman and created a new institution, a civil union, allowing same sex partners to unite under a contract, which is recognized by law and the Civil Code and which, legally speaking, has the same effects as marriage? Should the government consider following this lead so as to respect the sensitivities of a major portion of Canadian public opinion and of religious communities on the traditional institution of marriage? Could it do so while providing an appropriate and acceptable legal framework that is accepted by the gay and lesbian community, as the National Assembly of Quebec did?

[English]

Senator Carstairs: Honourable senators, that is exactly why legislation is now being drafted; literally, Justice officials were told to begin drafting legislation as of late yesterday afternoon. The proposed legislation will protect the right of churches and religious organizations to sanctify marriage as they define it.

[Translation]

Hon. Roch Bolduc: Honourable senators, I have listened to the Minister of Justice, Mr. Cauchon, saying he wants to pass a law to protect the rights of Churches to define and sanctify marriage in their own way. Why do we need a law to do that? I thought this law had been in existence for 3,000 years. Why is the Parliament of Canada intervening? Who are we in terms of the history of the Church, for example?

[English]

Senator Carstairs: Honourable senators, under the Constitution Act, Parliament has the ability to define marriage. However, as honourable senators know, many marriages in this country are performed by religious organizations. Those religious organizations shall not, in this proposed legislation — nor, I should hope, in any future legislation — be forced to do something they do not wish to do. That is why the proposed legislation would protect them from being forced to do that.

[Translation]

Senator Bolduc: You have a definition from the civil law, which I understand quite well, and then you have one from the Churches.

[English]

Hon. Gerry St. Germain: Honourable senators, on this question, what would prevent certain individuals from challenging religious institutions in the courts? The minister told me yesterday that the courts reign supreme over Parliament.

If religious institutions are challenged for not wanting to participate in the performance of gay and lesbian marriages, what is there to say that they will not end up before the courts and that the courts may find them intolerant in their behaviour? What would the government do then?

Senator Carstairs: Honourable senators, first, I did not say that the courts reign supreme over Parliament. I said that Parliament is supreme in the making of laws. That has not changed since the beginning of this nation.

If the honourable senator is asking whether individuals could take religious organizations to court, it is for that very reason that the government will submit its draft legislation to the Supreme Court — in other words, to ensure that we have it right so that that could not happen.

PRIME MINISTER'S OFFICE

COST OF G8 SUMMIT

Hon. James F. Kelleher: Honourable senators, my question is for the Leader of the Government in the Senate.

The bill for last year's G8 summit keeps rising. Thus far, the identified costs exceed \$192 million. New documents released through an access to information request tell us that it cost \$47 million for our cash-strapped military to have 5,000 personnel secure the ground and skies over the 4,000-square-kilometre Kananaskis area. This is in addition to the \$96 million spent by the RCMP and the \$50 million spent by the Department of Foreign Affairs.

Prior to the Prime Minister deciding to move the G8 from Calgary to Kananaskis, did he ask for any estimates as to the potential added costs of this move?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I think that no one has questioned the value of that G8 summit in terms of international development and the reputation of Canada. It was a wonderful G8 conference. Everyone who was there and those who commented on it indicated that it was a suitable and most secure venue for doing what Canada must do — that is to say, as a member of the G8, Canada must take its turn at hosting those events. I think the honourable senator is nodding in agreement that we must do that.

Senator Kelleher: No, no.

Senator Carstairs: Therefore, we undertook to do it. I think we did it extraordinarily well. We did it with a simpler format than, apparently, was undertaken this year at Evian. Perhaps they are going back to more formal events than in the past. However, the

Kananaskis summit worked well, so much so that I understand the United States is looking at that model for next year's meeting.

Senator Kelleher: Honourable senators, the leader states that no one is questioning the value of the summit. It just so happens that I am.

Could the Leader of the Government advise the Senate as to whether all the costs of the G8 summit have now been revealed or whether other costs will be made public in the coming months, as a result of other access requests?

Senator Carstairs: Indeed, there may be other costs that may be attributed to this summit because each one was done according to department. That, clearly, is made available in the Public Accounts.

Honourable senators, we have to distinguish between two values: value in terms of dollars and value in terms of Canada's international representation. I happen to think we got value on both counts.

JUSTICE

SAME-SEX MARRIAGE

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I should like to return to the government's proposed definition of marriage. My question to the minister is this: Will the current provisions in the Marriage Act, dealing with consanguinity, be applied in the proposed new definition? If not, why? If so, what will they be?

• (1430)

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, as the present legislation was requested only yesterday, I think that we will have to wait and see.

HERITAGE

CALGARY PHILHARMONIC ORCHESTRA— REQUEST FOR FUNDS

Hon. Tommy Banks: Honourable senators, we seem to be talking about who is running the country. The questions have been about the courts. I will come at it from the other end.

With the greatest respect to the people who are in bureaucracy, who serve us extremely well, I have a question for the Leader of the Government that relates to a question asked yesterday, to do with the Winnipeg Symphony Orchestra. Honourable senators will recall that both the Winnipeg Symphony and the Calgary Philharmonic Orchestras were in emergency situations and requested funds.

In the case of the Calgary orchestra, the province and the City of Calgary responded to a proposal put forward by the board of the orchestra to contribute \$250,000 to an emergency fund. Approximately \$800,000 was raised from Calgary individuals for that same fund on the condition that everyone would be in the game, including the federal government, which was last in, as is often the case. Everyone else was there, and everyone's contribution is conditional on everyone else's contribution.

I was a participant in a telephone call with an honourable minister who informed a member of the board of the Calgary Philharmonic Orchestra that the federal government had found a way to make that money available and that it would be done forthwith. That telephone conversation was in April.

To date, not a dime of money has been delivered. The upshot is that if it is not delivered, \$800,000 will be returned to the citizens of Calgary who donated it; \$250,000 will be sent back to the corporation of the City of Calgary; and \$250,000 will be sent back to the Province of Alberta. That is \$1.3 million.

Providing support to the Calgary orchestra was an undertaking made by a minister of the Crown. The contribution was announced in the newspapers. There were parties in the streets because the feds had come through.

In the same sense that Senator Stratton asked the question yesterday, can the federal government not find the means to decide what will happen and who will run the country?

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for his question. Unfortunately, not only are the Winnipeg and Calgary orchestras in financial trouble, but so is the Vancouver Philharmonic Orchestra. My answer is the same as yesterday. I anticipate an answer very soon, to this matter.

TRIBUTE TO PAGES ON DEPARTURE

The Hon. the Speaker: Honourable senators before proceeding to Orders of the Day, I would like to express our thanks to some of the pages who are leaving us this year.

Francis Poulin is from Zenon Park, Saskatchewan, and is presently completing a bachelor of arts degree with honours in history and a concentration in philosophy at the University of Ottawa.

[Translation]

Francis intends to work this fall and continue his studies later, either taking a masters degree in history or a masters degree in business administration.

[English]

Alexa Reynolds is from North Vancouver, B.C. In the fall, she will continue her studies at the University of Ottawa, in history and global studies. During the winter semester she will travel to Costa Rica, where she will study in San José.

[Translation]

Suzanne Gallant is from Moncton, New Brunswick. In September, she will begin her final year for an honours degree in political science at the University of Ottawa, specializing in political thought. Later, she intends to pursue post-graduate studies at a European university.

[English]

It has been a privilege and pleasure to have them with us. We thank them sincerely for all of their assistance to us during their time here.

[Senator Banks]

Hon. Senators: Hear, hear!

[Translation]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw to your attention, the presence in the gallery of the Club de l'âge d'or Santa Rita, from the Montreal area. This club is affiliated with the Conseil Régional des personnes âgées italo-canadiennes, which was founded by the Honourable Marisa Ferretti-Barth. They are the guests of Senator Ferretti-Barth. On behalf of all the senators, I welcome you to the Senate of Canada.

[English]

ORDERS OF THE DAY

APPROPRIATION BILL NO. 2, 2003-04

THIRD READING

Hon. Joseph A. Day moved the third reading of Bill C-47, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2004.

He said: Honourable senators, I spoke at length on this bill yesterday. It is a supply bill needed to carry on the business of government. I ask for your support of this bill, at this time.

The Hon. the Speaker: I see no other senator rising to speak. Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

INJURED MILITARY MEMBERS COMPENSATION BILL

THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Forrestall, for the third reading of Bill C-44, to compensate military members injured during service.

Hon. Michael A. Meighen: Honourable senators, it is rare in public life that one plans to speak on a Senate committee report that identifies and raises a specific problem only to have it overtaken by the solution. That is basically what has happened to me. It was good committee work. All of those who worked so hard to cause me this welcomed embarrassment deserve the congratulations and acknowledgement for a job well done from all of us in this chamber.

Therefore, my remarks today will deal with the report from the Subcommittee on Veterans Affairs entitled "Fixing the Canadian Forces' Method of Dealing with Death and Dismemberment" and the bill that purports to fix the problem, Bill C-44.

I would like to begin by going through the major issues raised in the report of the subcommittee because it puts Bill C-44 in context. Without knowing the issues raised in our report, it is difficult to address the rationale for Bill C-44. This bill has only come about because of the courage and persistence of Major Bruce Henwood whose ordeal is the subject of the report. I trust honourable senators will grant me some latitude as I relate our report to Bill C-44.

[Translation]

Honourable senators, I would like to begin by congratulating Senator Atkins, who spoke on this report on May 15 in this Chamber. I thank him for setting out in detail the reason for our hearings on the subject, and what we feel we have accomplished as a committee.

This report is, in fact, the story of Major Bruce Henwood, starting with the day in 1994 when he lost both legs, and continuing to the present. Major Henwood was serving in the 8th Canadian Hussars of the Canadian Forces, which was involved in the United Nations peacekeeping mission in Croatia. The vehicle he was driving hit an antitank mine and the resulting explosion cost him not only his legs but his military career as well.

[English]

As the committee recounts in its report, retired Major Henwood discovered, in due course, that the Service Income Security Insurance Plan, SISIP, which he was obliged to pay into, did not compensate him for his dismemberment. Instead, it was an income security plan.

• (1440)

In his appearance before your Subcommittee on Veterans Affairs, Major Henwood raised these issues resulting from his accident. The first issue was the military's grievance settlement procedure that does not equate with timeliness and with equity in its treatment of those pursuing grievances. The second issue was the less than satisfactory treatment of the injured soldier and his or her family following the injury and through treatment and rehabilitation. The third and, perhaps, most important issue was the lack of any form of accidental death and dismemberment insurance for members of the Canadian Forces below the rank of colonel.

I would like to say a few words about the first issue, our Armed Forces' grievance procedure. Taking the case of Major Henwood, because it is the case we know best, let us look at the timelines for his grievance process. He was injured on September 27, 1995, and released from the forces on April 1, 1998. In the spring of 1997, he was told that, under SISIP, he would receive no long-term

disability benefits. In May 1997, he began the grievance process. It has gone on now for more than six years, and he is still waiting for a decision from the Chief of the Defence Staff. This, honourable senators will agree, is unacceptable.

What is also unacceptable is the limited mandate of the Grievance Board. It should be able to deal with issues of fairness and equity as between ranks in the forces. The grievance process must change to ensure that our Armed Forces personnel receive just and equitable treatment in a timely fashion.

The second issue raised by Major Henwood's testimony related to the treatment of personnel and their families while the injured person is seeking treatment and recuperating. From the testimony we received, we learned that very little support is provided. When Veterans Affairs Minister Ray Pagtakhan appeared before the committee on May 14, we were assured that improvements had been made. However, your subcommittee believes that much remains to be done. That is why the committee has recommended that the Armed Forces assign an officer to contact as a champion of the interests of the injured party and his or her family. This would begin to at least address the helplessness and isolation that seem to occur after an accident. This is the time when the family needs support, both emotionally and financially. It should be provided. We will, of course, monitor the progress of both, the Department of National Defence and Veterans Affairs, in this matter.

The third issue, which is addressed by Bill C-44, has been resolved on a "go-forward" basis. In his testimony before the Subcommittee on Veterans Affairs, Defence Minister John McCallum stated that the government would be contributing funds to finance future accidental dismemberment benefits. This is the substance of Bill C-44 and so compensation will be in place for future accidents and claims. Beginning in April 2003, all Canadian Forces personnel, regardless of rank, will be covered for accidental dismemberment while on duty.

I am comforted by the testimony given before the Standing Senate Committee on National Security and Defence that Bill C-44 gives exactly the same coverage, from lieutenant-colonel down to private, as was previously in effect for the ranks of colonel to general.

The minister also indicated that a review would be carried out to determine how many Armed Forces personnel had been injured in this way from 1972, when the senior officers were given coverage, to the present. He undertook to use his best offices to work out some method of retroactive compensation for these men and women. Specifically, his phrase was: "to exhaust every avenue in an effort to do something positive on this front." I note that clause 4 of the bill and the attached schedule deal with this retroactive coverage. Clause 7 allows application for coverage by all those who may have been injured and provides for payment for loss to the estates of those who died before the coming into effect of this law. I understand, from testimony given before the committee hearings on Bill C-44, that there are potentially 114 living claimants and 81 deceased claimants.

Honourable senators, let me be the first to state that the minister has been true to his word and I would like to be among the first to congratulate him. As I said in my forward to the committee's report:

It is rare, in public life, that one has the opportunity to effect real change to public policy that will have a positive effect on the lives of a group of Canadians. But, thanks to the incredible determination of Major Bruce Henwood, the compassion and support displayed by his family during severely trying circumstances, the Subcommittee on Veterans Affairs was able to expose issues of inequity and unfairness and to bring about positive change..."

The subcommittee owes a deep debt of gratitude to Major Henwood and to his family for shedding light on this matter. He put his pain to constructive use, and his dogged determination will benefit future generations of military personnel.

The thanks of the subcommittee also go to General Christian Couture, Assistant Deputy Minister, Human Resources; and to the Minister of National Defence, John McCallum, who recognized the inequity, undertook to rectify it and, most important, did so. It is not easy in Ottawa to effect change quickly, however egregious the injustice. This is particularly challenging when the necessary changes are to be retroactive in effect. It is during the first day of law school that one learns that retroactivity is something to be avoided at all costs. I reiterate my congratulations to the Assistant Deputy Minister, Human Resources, and to the minister.

Honourable senators, my hope is that we can pass Bill C-44 in an expeditious manner so that those who suffered will immediately be able to seek compensation. Having said this, it is my intention to ensure the subcommittee monitors the implementation of Bill C-44 so that we can report to the Senate, from time to time, on what we believe will be the success of this bill.

The Hon. the Speaker pro tempore: Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

[Translation]

BUDGET IMPLEMENTATION BILL, 2003

THIRD READING—MOTION IN AMENDMENT— DEBATE CONTINUED—VOTE DEFERRED

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Robichaud, P.C., for the third reading of Bill C-28, An Act to implement certain provisions of the budget tabled in Parliament on February 18, 2003,

And on the motion in amendment of the Honourable Senator Nolin, seconded by the Honourable Senator Murray, P.C., that the Bill be not now read a third time but that it be amended in clause 64, on page 55,

(a) by deleting lines 11 to 39; and

(b) by renumbering clauses 65 to 130 as clauses 64 to 129, and any cross-references thereto accordingly.

Hon. Roch Bolduc: Honourable senators, I support the proposal made by my honourable colleague, Senator Nolin. I agree with his amendment. I listed the reasons why this bill must be amended. I want to be clear in saying that this is not the minister's fault, although as minister he is responsible; rather this is a bureaucratic error. I must insist on this.

Senator Moore spoke very eloquently on this matter. He was very clear and to the point. I am certain that those familiar with the bill will see that this is a bureaucratic error that must be corrected. I am being very frank here.

[English]

Hon. Joseph A. Day: Honourable senators, I rise to speak briefly against the proposed amendment of Honourable Senator Nolin. This amendment was explored extensively and rejected at the Standing Senate Committee on National Finance. That exact same amendment was brought forward in the house and was subsequently ruled out of order by His Honour. Senator Nolin then proposed a second amendment. The effect of a second amendment, honourable senators, is to clean off entirely the proposed correction by the government, as opposed to creating one special group, as proposed in the earlier amendment.

• (1450)

Honourable senators, let me put this in perspective. This is an amendment to Bill C-28 — the proposed implementation of the Minister of Finance's budget for the coming year. The proposed amendment relates to one small portion of the budget implementation bill, a portion that took up most of our time on two full days of hearings at the Standing Senate Committee on National Finance. Two full days were spent on this precise point. As Honourable Senator Moore indicated, he had an opportunity to attend one of those two meetings, and he gave his views from having heard the deliberations at one of those meetings.

Honourable senators, with respect to the proposed amendment, Senator Mahovlich described the situation quite clearly, in metaphoric language. He described it as a large tub with a plug in it; the plug was out and the government was putting it back in.

What this proposed amendment does, honourable senators, is take the plug back out again. It leaves it wide open, not only retrospectively but also forwardly; it continues, until somehow we get the plug back in. To paraphrase Senator Mahovlich's metaphoric description, this is the government's attempt at correcting a situation.

[Senator Meighen]

The Honourable Senator Moore used another metaphor when he likened it to the government moving the goal posts. Honourable senators, that is not the case. This is not a situation where everyone was operating under a set of rules and thought something completely different prior to the government making the announcement. This is a situation in which everyone believed the rules were those that were being administered.

From the very beginning, all the school boards were being rebated 68 per cent of their GST. Everyone understood they were getting 68 per cent back. Everyone was operating under the rules until a tax consultant told a number of school boards that they were entitled to a 100 per cent GST rebate.

Senator Lynch-Staunton: Shocking.

Senator Day: A court case was initiated. The board lost its case at the Tax Court and appealed to the Federal Court of Appeal. The goal posts were moved when the tax consultants, who work on a commission, came along and said: "We will do this for you."

Senator Lynch-Staunton: Lawyers do not do that, of course. We are not talking about you.

Senator Day: That group is the Deschênes group. That group has been excluded because they went to the Federal Court of Appeal.

The school boards we are talking about in this particular instance are all the school boards across Canada — all of them — other than that small group that initiated a court case and took it through to the Federal Court of Appeal and got judgment. Given that the others did not get judgment before the announcement, there is no logical reason why that group should be excluded from the provisions of this proposed legislation.

One of the arguments I have heard is that it took the government too long to take this step. The government wanted to introduce a bill after the Minister of Finance brought forward his documents. It was a timing issue. The announcement was made on December 21, 2001, and, a year and two months later, Bill C-28, to implement certain provisions of the budget, contains a provision to fulfil the undertaking made by the Minister of Finance in December 2001.

Honourable senators, there was no mishandling of that issue by the federal government.

The second issue, honourable senators, that I will speak briefly of, is the issue of retroactivity. No one likes to operate retroactively on a continuous basis; however, this is another example of where retroactivity is necessary. I have deep respect for the witnesses who came before us in committee on this particular matter. The Honourable Marc Lalonde, although he was not a witness, was very helpful in bringing forward a particular point of view, and we have a lot of respect for Mr. Lalonde and his clients. I also have the greatest respect for Roger Tassé, who was one of our witnesses, along with Simon Potter, Chairman of the Canadian Bar Association. None of the witnesses said that retroactivity was beyond the power of

Parliament; in fact, they agreed that retroactivity is within the jurisdiction and the power of Parliament. Parliament is supreme, and there are certain guidelines that the government uses to exercise retroactivity. That is what we asked the government to do with respect to the Henwood bill, that was just passed. That is retroactivity. We do those things.

Yesterday, we dealt with retroactivity with respect to veterans, to ensure that veterans from previous years were compensated retroactively for their service that had passed. The rules were different, but we recognized that there was a wrong that needed correcting.

In this case, honourable senators, we have a situation where everyone knew the rules. Everyone was operating under those rules. This proposed legislation, although it acts retroactively, if you see fit to pass it, will confirm that practice. It does not change the practice that was; it confirms it.

Honourable senators, under those circumstances, I respectfully request that you reject this amendment and support the bill as presented.

Some Hon. Senators: Hear, hear!

[Translation]

Hon. Roch Bolduc: Honourable senators, Senator Day was right in what he said, but he was not talking about the subject at hand. The subject, is the second group of school boards. That is what is important. You did not speak about that group. However, they filed their application from 1997 to 2002, and they were ready to go to trial. In the end, because the Federal Court had already sided with the first group, government lawyers said to them, "If you put your application aside, it will be fine, you will get your money." But that is not what happened; the minister came in and imposed retroactivity. We have nothing against retroactivity; our problem with the minister is that he is applying the change retroactively when he knew quite well that the lawyers had agreed to consent to judgment. I will say this: that is unacceptable.

I am referring to the second group of school boards. I am not talking about those that did not file their application, but those who were before the courts, who had filed all of their papers properly. They had received consent to judgment from the government, and then the Minister of Finance said, an hour later, "No, we are going to do it differently." It makes no sense whatsoever. This is a serious mistake, I can tell you.

Do you know what happened? Some junior official somewhere in the Department of Finance made a mistake. He included this in the budget and the minister did not have the time to read it. I can give another example like this: during the 1995-96 budget, Marcel Masse, someone I know quite well, had done a study on the federal budget; he took a careful look at the programs, and made cuts. With regard to the Department of National Defence — with a \$12 billion budget — people said, "Since the minister wants us to make cuts, we will." They came back with a very lengthy proposal that contained about 195 recommendations for cuts to defence. Among these cuts, at the bottom of one page, was the

elimination of the National Defence College. At the bottom of another page, the Collège militaire de Saint-Jean was eliminated, just like that. This was just like what the junior official I described did at the Department of Finance. The minister did not see it, clearly. The same thing happened here.

• (1500)

I said to Marcel Masse, when he appeared before the committee, that he had just eliminated the Collège militaire de Saint-Jean; that he had just decided that it was a pointless expenditure in the defence department's budget. I told him that it was not only a college, but also a recruiting tool to bring French Canadians into the federal armed forces. It represented an equal opportunity for French Canadians to go to school, learn a discipline, finish at the RMC in Kingston and become bilingual officers there. It was a necessary gateway to provide an equal opportunity to enter the Canadian Forces. It was wiped out with a stroke of the pen. Look at what will happen in 20 years in the navy and the air force. We will talk about it again. It is not acceptable. I want you to know that and I am very knowledgeable in this field.

Senator Day: I do regret the closing of the Collège militaire de Saint-Jean, as well as the college in Victoria.

[English]

I did not speak of Group 2 in particular because the amendment before us deals with a much broader group. Group 2 was dealt with by the amendment that the Speaker ruled to be out of order.

For the information of honourable senators — and because my friend Senator Bolduc spoke so passionately about Group 2 — that group was represented by legal counsel. In a letter written to the legal counsel, Justice Canada stated:

Please note that the proposed retroactive amendment to the GST affecting school authorities announced in the Department of Finance December 21, 2001, press statement was not withdrawn or modified. According to our understanding of that press release, the proposed amendment will have no effect on the cases that have been decided by the Federal Court of Appeal...but will apply to all other proceedings —

— including those proceedings, Group 2.

The lawyer could have negotiated this, but the lawyer writes back, acting on behalf of Group 2. He states that, "We understand that this settlement is binding notwithstanding whether a retroactive amendment as announced..." becomes law or not.

That is what they wanted. What does the government say? The government writes back and states:

We do not understand the meaning of the second paragraph....

On the basis of the Minister of Finance's press release of December 21, 2001, the possibility remains —

— of course, it is up to Parliament, but the possibility remains —

[Senator Bolduc]

— that the retroactive amendment to the relevant provisions would have an effect on these proceedings, notwithstanding the judgments of the Tax Court of Canada. In that event, the present settlement will not constitute a constraint on the power of the Minister of National Revenue to reassess in accordance with the terms of such retroactive amendment.

The lawyers could have negotiated a way out of this. They are now here talking to parliamentarians to bail them out of something they should have done themselves.

[Translation]

Senator Bolduc: There was consent to judgment. The government spoke out of both sides of its mouth: the Solicitor General said one thing and the Minister of Finance said another.

[English]

The Hon. the Speaker: I regret to advise honourable senators that Senator Day's 15 minutes have expired.

Hon. John G. Bryden: Honourable senators, I have just been reminded that we are getting awfully close to the last time that Senator Bolduc will be able to participate in such an impassioned debate, and I for one will clearly miss it.

[Translation]

Senator Comeau: If Senator Day has finished speaking.

Hon. Marcel Prud'homme: Very briefly, honourable senators, I think that Senator Bolduc has expressed exactly what I wanted to say this afternoon. I had prepared some notes. Among the major mistakes he pointed out to us, two struck me particularly. I have never accepted the closing of the Collège Militaire de Saint-Jean. You can see that we are now paying for that huge mistake because the recruitment of bilingual officers in the Department of Defence has gone down considerably ever since. The second point is the break-up of the Airborne Regiment. In order to correct one error, a great institution has been destroyed — one that would have been very useful to us this coming summer. You know, of course, that we are going to send more than 1,000 military personnel to one of the most dangerous strategic locations, Afghanistan. Soldiers of the calibre of those in the Airborne Regiment, if it had not been eliminated for all sorts of other reasons, would have been very useful in carrying out the duties we will assign to others this summer.

[English]

The Hon. the Speaker: Are honourable senators ready for the question on Senator Nolin's motion in amendment?

Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion in amendment?

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker: I am unable to make a determination from that voice vote. I will put the question in a formal way.

Will those in favour of the motion in amendment please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those opposed to the motion in amendment please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the "nays" have it.

And two honourable senators having risen:

The Hon. the Speaker: Call in the senators.

Hon. Bill Rompkey: Could we agree to a half-hour bell?

Hon. Terry Stratton: No, a 24-hour bell.

The Hon. the Speaker: The opposition whip has requested a deferral, as he is entitled to do under rule 67(2). Accordingly, the vote will be held tomorrow afternoon at 5:30 p.m., with a 15-minute bell, according to our rules.

Senator Stratton: Honourable senators, I would suggest, if I may, that the vote be held at 3:30 p.m. tomorrow.

Senator Rompkey: We would prefer to hold the vote at 5:30, with a 15-minute bell.

The Hon. the Speaker: We must have unanimity on that matter. Accordingly, the rule will prevail. The vote will be at 5:30 p.m. tomorrow, with a 15-minute bell.

SPECIFIC CLAIMS RESOLUTION BILL

REPORT OF COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Chalifoux, seconded by the Honourable Senator Adams, for the adoption of the fourth report (revised) of the Standing Senate Committee on Aboriginal Peoples (Bill C-6, to establish the Canadian Centre for the Independent Resolution of First Nations Specific Claims to provide for the filing, negotiation and resolution of specific claims and to make related amendments to other Acts, with amendments) presented in the Senate on June 12, 2003.

Hon. Terry Stratton: Honourable senators, I rise to speak to the fourth report of the Standing Senate Committee on Aboriginal Peoples, with respect to Bill C-6, the specific claims resolution bill.

(1510)

The committee heard testimony from various Aboriginal groups across the country. Two things struck me quite hard, which bear repeating. One was the patience that these people have

with the Government of Canada. Over the years, they just keep coming back, hoping that, one day, the Government of Canada will listen to them. Second, the issue that really struck me was the close relationship that the Aboriginal peoples have to the land.

I would like to quote part of the presentation by Chief Roberta Jamieson from the Six Nations of the Grand River Territory. In the introduction on page 1 of her brief, she wrote:

I would like to share with you a Haudenosaunee (Iroquois) teaching:

One day there was a young boy out hunting alone in the bush. He heard a voice calling to him. He stopped and looked around but did not see anyone and continued on his way. He heard the voice again, telling him to look down. The young boy realized that the voice was coming from a stone. He sat next to the stone and listened. For several days the young boy would come and sit by the stone listening. He would bring fish and game for the stone as thanks for sharing the wonderful stories of life. The young boy started telling the people in his village about the stories and things that he was learning from the stone and they began to come and listen too. Soon all the people in the village were happier and treating each other better from listening to the stories that the stone shared.

Chief Jamieson continued:

As with all teachings, it has a lesson. It demonstrates the respect and tie that we experience with the land. Our ancestors listened and heard the messages provided by the land and the resources upon which we now rely. Lessons were taken from nature and acted upon. The messages are heard. Six Nations hopes that the Standing Committee on Aboriginal Peoples does nothing less.

She goes on in the last paragraph of the introduction to say, in reference to Bill C-6 and the House of Commons, that:

Sadly, the machinery of Canadian democracy leaves us distanced from our lands and resources; still seeking fair resolution. Bill C-6 does not provide the fair, independent and speedy solution to long outstanding historical obligations on the part of the federal government that is being sought. Many First Nations were not heard by the House of Commons Standing Committee or the House below, literally. Their requests to attend the hearings disregarded. Another Nations' representatives are still making decisions that impact directly on our daily lives, thus well-being, without hearing our voices.

That needs to change.

With that in perspective, I would like to turn now to the presentations made by the various Aboriginal groups to our committee. Over 50 groups requested to make presentations and fewer than half were heard. That reflects precisely the concern that Chief Roberta Jamieson had with the presentations in the House of Commons.

It was also remarkable that the vast majority of the presenters wanted Bill C-6 rejected outright, without amendments. Why? Because in large part the minister had brought together the Aboriginal peoples in a joint task force to look at what should take place with respect to changes. After great effort and time, they brought forward the joint task force report, which in the Aboriginal people's minds was largely ignored.

What we saw in the Aboriginal presentations, time after time, was that the Aboriginals were consistently saying "reject the bill. Go back, tie in with the Aboriginal peoples again, and bring forward a new bill because this bill should not and cannot be saved."

I will quote again from Chief Roberta Jamieson, at page 11 of her brief. She concludes her presentation to the committee by saying:

Therefore, Six Nations of the Grand River Territory asks this committee to hear our voices and recommend Bill C-6, *An Act to establish the Canadian Centre for the Independent Resolution of First Nations Specific Claims, to provide for filing, negotiation and resolution of specific claims and make related amendments to other acts, "The Specific Claims Resolution Act,"* not be passed to enable a return to a co-operative partnership between First Nations and Canada so that a bill that achieves justice and fairness for First Nations and all Canadians, may be produced.

That was just one example of many presentations that had to do with the outright rejection of this bill.

I will take honourable senators to another part of the country, to the West, and a presentation by the Federation of Saskatchewan Indian Nations. In their brief to the committee, they stated:

The Federation agrees with the legal analysis of Bill C-6 undertaken by the AFN, a copy of which has been given to this Committee. After our own extensive analysis, we too have concluded that Bill C-6 does not provide a process that is effective, fair or expeditious. It does not remove the conflict of interest in having Canada judge the majority of claims against itself. In fact, in some ways the Bill would create a system that is worse than the current one. If the Bill is passed, the result will be more claims being dealt with by the courts, at greater cost to First Nations and Canada, and with greater chances of harmful confrontations. The Minister of Indian Affairs has recently stated that he wants to reduce the amount of money spent on lawyers and consultants, but the opposite is what would happen if this Bill were to pass into legislation.

The presented went on to say that:

It is my position that Bill C-6 is fundamentally flawed and that it should be withdrawn. The Federal Government and First Nations should then return to joint negotiations to

develop a Bill that meets the needs of First Nations, while addressing the concerns of the Federal Government.

Those are two examples of the vast majority of the presentations that called for the outright rejection of this bill.

The minister, in his presentation to the committee, referred to the joint task force report. He stated that there were two areas where they did not agree with the joint task force report and, therefore, did not follow the recommendations of the task force report. However, the Aboriginal presentations stated to us quite clearly that far more than just two references to the JTF were ignored. As a result, because there were so many problems with the bill, not just two, they maintained that the bill should be rejected. There was a conflict between what the minister had stated and what the Aboriginals had been stating with respect to the JTF.

• (1520)

I will now address the concerns that resonated throughout the presentations. The first is with respect to removal of the cap that was based at \$7 million. As the committee report indicates, the cap has been bumped up to \$10 million through Amendment No. 2. However, the total sum of money devoted to the payouts of these claims does not change; it remains the same. At least, that is my interpretation of it.

The second concern that struck me relates to the delay. The process is precisely described, as best as possible, in a graph that maps out the route through. It is like a maze. Except in the first instance, where the minister must respond within six months, no other time element was applied to this process. Therefore, the minister or the government could take as long as they want to work through the process. This is of great concern amongst the Aboriginals. How can a process for these claims be developed whereby no end date is put in place? It could go on and on and on. Honourable senators, I do not believe that that is a situation that we should live with. We must try to do something with respect to that.

The other issue is that, if we are going to deal with claims and overcome the time problem with respect to them, we need to apply more resources to the process. If there is a lack of resources to move the claims through the system, how can we possibly assure the Aboriginal peoples that they have a time-sensitive government responding to them? In my view, it is absolutely critical that more resources must be dedicated to this.

Another issue that was debated was the non-derogation clause. Many of us felt that while the Senate was looking at the non-derogation clause — and yes, it is covered off already — many of the Aboriginal presentations indicated that it was important to reiterate, in this particular case.

I want to refer to the observations, because I was bothered by a particular instance. In the first draft of the observations, one definition that was proposed to us, but was withdrawn, related to do with the definition of "claim." That definition read as follows:

The definition of claim in the Bill appears to be narrower than that currently allowed under the Specific Claims Policy or which might be allowed based on evolving case law. Specifically claims based on treaty rights other than to land or assets, claims arising from unilateral undertakings of the crown, and certain pre-Confederation claims could all be excluded from the Centre's work. We have been told that this could eliminate many of the claims currently in the system or that First Nations have been preparing.

Senator Sibbeston assured the committee that, after checking with the ministry, this was no longer a problem or required as an observation. He gave us assurances that that was not needed. We had gone that far down the track and were presented with an observation, and then there was no discussion other than one piece of evidence given by one committee member that it was no longer needed. There was no real discussion about that — none at all.

Lastly, what really rankles with respect to the observations is that we asked for an observation indicating that the joint task force report was ignored and that the vast majority of the presentations by the Aboriginal peoples recommended outright rejection of the bill. The minister should take note —

The Hon. the Speaker: Senator Stratton, I am sorry to interrupt, but your 15 minutes have expired.

Senator Stratton: I have perhaps three minutes left.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Stratton: It was important that that observation be made and included in the report, as a message to the minister of what transpired throughout those committee hearings and what the Aboriginal peoples stated quite clearly.

Honourable senators, consideration should be given to the outright rejection of this bill at third reading.

Translation]

Hon. Aurélien Gill: Honourable senators, I must admit that I am both sad and disappointed. I still live on my reserve. I have friends there, my children are there and I suffer the consequences of decisions taken by the Department of Indian Affairs and Northern Development. I also suffer from decisions taken within federal or provincial institutions.

Today, I will not put forward an amendment because I am not killed at that. Instead, I will express my feelings about Bill C-6. In my view, it contains administrative arrangements rather than true amendments. Instead of responding to the real needs of our First Nations' communities, this bill is an attempt to facilitate the work of officials at the Department of Indian Affairs and Northern Development.

As they are aware of the deplorable situation in First Nations' communities, some senators have described their sadness upon

visiting the communities. The sadness expressed was profound, even if the visits lasted only a day, an hour, or a minute. I sense that these visitors would have a hard time living with the situation in our communities for more than an hour or a day.

These visits illustrate to what extent the situation is not always very pleasant. The First Nations have been living in deplorable conditions for so many years. They have suffered for a very long time and have been denied their rights as full-fledged citizens.

• (1530)

I know that several colleagues in the Senate are lawyers. They often claim that we live under the rule of law. Is there one law for Aboriginals and another for governments and legislators in this House? We live under the rule of law.

We are kept out of any real participation in the development of a country we love, a country in which we are considered foreigners. The Indian Act still considers us to be minors. Read it and you will see.

Yet this country welcomed the first Europeans, your ancestors for the most part, with open arms. Why is the Department of Indian Affairs and Northern Development imposing solutions that do not respond in any way to the real needs of First Nations in this country? Why is it that, in 2003, we still have to beg?

Bill C-6 ought to protect the rights of this country's first citizens. If laws do not exist to protect these rights, what hope do we have? How can it be that, after several years of consultations between the Department of Indian Affairs and the First Nations, these were stopped, and then the minister came along with this Bill C-6, the format and content of which does not correspond to the needs of the First Nations? There was much reference to this at the hearings of the Aboriginal Peoples Committee. To my knowledge, there was not a single witness, Aboriginal or non-Aboriginal, who did not point out certain problems with this bill. What they wanted, quite simply, was that negotiations on the bill be resumed or that propose major amendments be brought forward. And there are none. What is the point in holding public hearings? To support the department? Why are the Aboriginal senators here? To take part and to be accepted as full-fledged citizens? What are we doing here?

Why did they not respect the desire of the First Nations to return to the negotiating table within a true partnership so as to achieve fair consultations in keeping with their needs? When are we going to stop considering the leaders of the First Nations as threats, as irresponsible and incompetent? Sometimes attempts are made to avoid us. People prefer to deal with participants that are not Aboriginal. I am not talking through my hat here.

When are we going to stop all these insults and humiliations aimed at a civilization that has been in this land, its own land, for thousands of years? There is much more I could say on this, but I will stop here. I know that the sponsor of Bill C-6 has made an effort, but despite his effort the bill is not equal to the expectations of the First Nations. I would like to hear a comment from the committee chair or the sponsor of the bill.

[English]

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I also wish to participate in this debate. I am not convinced that the Mi'kmaq and the Maliseet people from my region of Canada fully support this proposed legislative measure. I am also concerned about the general principle of Indian rights for Indian women. Therefore, I should like to move the adjournment of the debate.

On motion of Senator Kinsella, debate adjourned.

[Translation]

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have been a little quick on the trigger with respect to reports of committees. I would like to revert to item No. 2, dealing with the fifth report of the Legal and Constitutional Affairs Committee concerning Bill C-10B.

[English]

The Hon. the Speaker: Is leave granted to revert to Order No. 2?

Some Hon. Senators: No.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I understood the Deputy Leader of the Government to stand item No. 2 and then item No. 3 was called. Therefore, we are on item No. 3, are we not?

The Hon. the Speaker: Senator Robichaud asked for leave, and now I will ask: Is leave granted to do that?

Some Hon. Senators: No.

Hon. Anne C. Cools: Honourable senators, I do not understand what happened. I heard the deputy leader rise and request that the question be put on Bill C-10B.

Senator Lynch-Staunton: That was after he stood it.

Senator Cools: Is the honourable senator telling me that the same person who stood the order was asking for consent to revert to it?

Senator Lynch-Staunton: Yes.

Senator Cools: Then he obviously made a mistake, honourable senators. It was a simple mistake. We can certainly understand that and revert to the order.

The Hon. the Speaker: We have dealt with that, Senator Cools. Leave was requested and withheld.

[Translation]

Senator Robichaud: Honourable senators, today is Wednesday, and normally we try to finish our work in the Senate at 3:30 p.m. to allow committees to meet. There are four committees that are supposed to meet today. Will the Senate give leave to have all items that have not been reached stand in their place on the Order Paper until the next sitting of the Senate?

[English]

The Hon. the Speaker: Is it agreed, honourable senators, that all remaining items stand on the Order Paper until the next sitting and that we proceed to the adjournment motion?

Hon. Senators: Agreed.

[Translation]

The Senate adjourned until Thursday, June 19, 2003 at 1:30 p.m.

Wednesday, June 18, 2003

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—

THE HONOURABLE DAN HAYS
SPEAKER



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THE SENATE

Thursday, June 19, 2003

The Senate met at 1:30 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

[Translation]

SENATORS' STATEMENTS

TRIBUTES

THE HONOURABLE ROCH BOLDOC, O.C.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, the Senate never feels light-hearted when the retirement date of one of its members approaches. This week, the last one the Honourable Roch Bolduc will spend in this place, is one of those times.

Senator Bolduc was appointed to the Senate in September 1988, while debate on the Meech Lake Accord was in full swing. He and three others from Quebec, one of whom was Senator Beaudoin, all members of the Order of Canada, were named after consultation with Robert Bourassa, who was then Premier.

[English]

If any proof is needed that provincial input in Senate appointments is beneficial, the 1988 appointments should dispel any doubts about that once and for all.

Roch's entire career before coming to the Senate was with the Government of Quebec at many senior levels, including the most senior, as Secretary-General of the Government, equivalent to Clerk of the Privy Council. He served premiers and ministers with the same loyalty, dedication and commitment, whatever their political leanings, be they federalist, separatist, sovereigntist or nationalist. He is recognized as a leading expert on public administration and has spoken and written much on the subject, both in Canada and abroad.

[Translation]

For 15 years, the Senate has benefitted enormously from his unique expertise, because Senator Bolduc has never hesitated to share that expertise with all his colleagues in this chamber and in committee. We rapidly learned to listen to him with great attention — I dare say with special respect — because he has always expressed himself as a public servant — and servant of the public — rather than as a partisan politician.

[English]

Indeed, Roch set his own standard of conduct and behaviour here. As a senior public servant in Quebec, he ably carried out his responsibilities, no matter what political options guided the government. Here, while a most reliable member of the

PC caucus, his commitment to proper public policy and sound fiscal policy always came first, and beware those with whom he disagreed.

• (1340)

[Translation]

Finally, no one will forget his passionate, intelligent and knowledgeable speeches. His departure creates a vacuum that will be difficult, if not impossible, to fill. I wish him and his charming wife, Gisèle, an active and well-deserved retirement. And I must point out that the district Roch represents in the Senate is called "Golfe," the gulf.

[English]

All of us represent a certain district in Quebec, unlike senators from other provinces, and it just happens that Roch's district is called "Golfe."

[Translation]

Could this be a coincidence, because that is his favourite sport? Only he can say, but I can wish him success in reaching every golfer's ultimate goal: playing his age.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, Senator Bolduc served his countrymen well and has received numerous honours and awards, including the Order of Canada. Whether it is from the government benches or the ranks of the official opposition, he has always had great insights to offer on issues that he believed were important to Canadians.

[English]

As all honourable senators know, Senator Bolduc was a distinguished civil servant in the province of Quebec. After many years in the public service, where he had to be unfailingly discreet in his pronouncements, Senator Bolduc came to our chamber, where he could allow his passions to flow.

Senator Bolduc, all of your colleagues will remember the unfettered exuberance with which you spoke and we will miss your contribution to our daily debates. As we bid you farewell, we rest in the certainty that your efforts to improve government work at all levels will not desist with your retirement.

Hon. Lowell Murray: Honourable senators, I shall be brief. No one is rushing Senator Bolduc out the door, but many would like to pay tribute before he goes — many more than time limits can accommodate.

[Translation]

His colleagues on the Standing Committee on National Finance will forgive me for speaking on their behalf. Roch Bolduc was indisputably the star of this committee, and his experience and knowledge, in terms of public administration in Canada, England, France or the United States, are unparalleled.

His analyses of government programs and public expenditures are brilliant, incisive, sometimes devastating, often very amusing but never malicious. He is always right on the mark. He is an expert when it comes to federalism. Furthermore, he knows Quebec like the back of his hand and Canada as a whole.

Later in life, after a long career as a senior public servant, he went into federal politics, but he quickly proved himself a fast learner.

[English]

He is not quite a Red Tory, but he has been a pretty progressive Conservative most of the time. I could not close without publicly acknowledging my great personal debt and gratitude to him for his support, his intellectual guidance, his loyalty and friendship to me in various positions I have occupied here over the years. He has been an ornament to the Senate, to the public service and public life of Quebec and of the entire country, and all of us are in his debt.

[Translation]

Hon. Lise Bacon: Honourable senators, I cannot allow Senator Bolduc to retire without saying a few words about him. I had the privilege of knowing him long before he came to the Senate. We met in Quebec, where he was a senior official in the Quebec government, before becoming a parliamentarian.

He served Quebec with loyalty and devotion and, during the Quiet Revolution, a period of transformation in Quebec society, he was instrumental in setting up Quebec's new public service as director of planning at the Public Service Commission.

Roch Bolduc's government service included appointments at various levels, including deputy minister and Secretary-General of the Government. Integrity, intellectual rigour and hard work characterized all that he did. Not content with being a government administrator, Senator Bolduc also wanted to share his knowledge and experience.

He taught at Université de Montréal, Université Laval and the École nationale d'administration publique. He was associated with the work at the Institute of Public Administration of Canada. A skilled teacher, he trained many public servants and gave numerous lectures throughout the world.

With his departure, we are losing an expert in public finance and management. We are also losing a parliamentarian who followed Canadian government affairs closely and was always prepared to draw the Senate's attention to certain aspects of government management.

Senator Bolduc's contribution to the work and debates of the Senate was considerable. I would like to thank him for all that he has brought to our institution. I find it hard to believe that he is going to leave us now, at the peak of his performance. I am sure other challenges await him. Senator Bolduc, thank you for everything. Do not forget us.

[Senator Murray]

Hon. Jean-Claude Rivest: Honourable senators, I was in the office of Quebec Premier Robert Bourassa when he received a call from Mr. Brian Mulroney, who reminded him that, under the Meech Lake Accord, the premiers were to suggest names for Senate appointments.

Spontaneously, Mr. Bourassa said he would think about it, and that Roch Bolduc would certainly be one of the group. I must say that Mr. Bourassa's response was a very spontaneous one, acknowledging Roch's merits. In fact, all the Premiers of Quebec since the late 1950s would have been as quick to respond, because Roch Bolduc had earned the trust and esteem of all the Premiers of Quebec, regardless of their political allegiance.

Mention must also be made of his extremely significant contribution to the building of a competent and dynamic Quebec public service, one of the major accomplishments of the Quiet Revolution, as we know, and particularly of the Premier of the day, Jean Lesage.

Roch Bolduc and many others, among them Michel Casavan, Marcel Bélanger, Michel Bélanger and Claude Morin, all great Quebec public servants, were successful in building a highly competent public service. Roch Bolduc was one of these great builders. Not only was this achievement of great importance for Quebec, for the governance of Quebec, but it was also of great importance for all Canadians.

Because of the contribution and the work of Roch Bolduc, all Canadian public servants and all Canadian governments have been able to deal with competent, dynamic and constructive counterparts in Quebec. We owe Roch Bolduc a vote of competence for all of these accomplishments.

Senator Lynch-Staunton has, of course, referred to the strength of Roch Bolduc's convictions and opinions. Let us just say that, once in a while, he got carried away a bit, but this was just part of the sincerity and value of a very great Quebecker, a very great Canadian, a very great friend.

Hon. Gérald-A. Beaudoin: Honourable senators, I will always remember September 26, 1988. That was the day that Roch Bolduc, Solange Chaput-Rolland, Jean-Marie Poitras and myself entered the Senate.

We were on Robert Bourassa's list and were appointed by Brian Mulroney. This was at the time of the Meech Lake Accord. This group of four was appointed in the spirit of the Meech Lake Accord, which, as we well know, came to naught.

I knew Senator Chaput-Rolland, as we were on the Pepin-Roberts Commission together. I had, of course, heard of Roch Bolduc, but we became great friends only once we were in the Senate together. We sat side by side for fifteen years.

Roch Bolduc served the Senate well as a harsh critic of the budget and of the public service, which he knew like the back of his hand, having been the Secretary-General of the Quebec cabinet. He was also as a member of the Foreign Affairs Committee.

He will leave a lasting impression on the upper chamber. His career has been a remarkable one, and we always paid heed to his comments on financial matters. Roch was never one to mince his words. It was always a pleasure to hear his passionate and staccato voice. I have always wondered how the interpreters and stenographers managed to follow his fiery speeches.

We become philosophical with age. We all make judgments about current events and history. Roch is quite fond of American history: John Adams, Thomas Jefferson, Franklin Roosevelt, and the like. He also likes philosophers such as Maritain, Teilhard de Chardin and many others. He is part of a generation trained in the classical colleges that existed in Quebec before the Quiet Revolution.

Of course, Roch will not forget his Florida. He will miss the Senate, his private club as he called it, and he will continue to shake things up, to quote a phrase. His comments will always be welcome. Thanks to speakers like Roch, the Senate is never a dull place.

We wish Senator Bolduc a long, happy and healthy retirement.

• (1350)

Hon. Mira Spivak: For several years now, I have had the great pleasure to sit next to Senator Bolduc, here in this chamber.

I learned a great deal, sitting so close to Senator Bolduc; for example, how to manage a stock portfolio. I also learned about the life of an eminence grise, at different stages, within the Government of Quebec, and about the very complex world of public finances. And last, but not least, I learned about the world of golf.

Senator Bolduc impressed me with his passion, intelligence and wisdom. We will all miss him, because he has been a pillar of the Senate's Conservative caucus.

Senator Bolduc, I wish you and your family a marvellous retirement, full of all of the riches that life has to offer.

We will miss you enormously. Good-bye and good luck.

Hon. Roch Bolduc: Honourable senators, usually I am the one who exaggerates. But today, it is others who are exaggerating. Usually, I am the one who gets all hot and bothered, while others keep their cool. Today, I will keep my cool.

After fifteen years in the Senate, I am leaving with nothing but good memories of my time here in the federal capital. First, I would like to thank the former Prime Minister of Canada, Brian Mulroney, who, at the suggestion of Robert Bourassa, appointed me to the Senate. I have never regretted it.

[English]

I learned my trade in the chamber and in committee with some terrific colleagues, both on the government side and the opposition side. I, myself, have sat on both sides. I worked hard to become as familiar as possible with the issues placed

before the Foreign Affairs Committee and the National Finance Committee and made my modest contributions to the work of both. The collaboration of the clerks and research assistants was invaluable. As a former senior member of the Quebec public service, I also appreciated the competence of the senior federal public servants who appeared before us to give evidence. Being a member of the PC caucus enabled me to get to know a remarkable group of people whose overriding concern is the well-being of our country.

I also participated in the activities of the Canada-Europe Parliamentary Association and the Canada-United States Inter-Parliamentary Group. I think the latter should be even more active, given the importance of our relations with our American friends.

[Translation]

I cannot leave this place without first saying a few words about the institution that the Honourable Senator Joyal just addressed in his latest publication. I am a Conservative, but I am also a reformer.

Do we, as a group, represent Canadian society? This is a difficult question to answer. However, we are quite different from the Senate that existed during the 1980s, when I was first appointed. I am pleased to note that women play a greater role today than they did in 1988.

I believe, however, that the Senate's democratic nature would benefit if senators were indirectly elected, as they are in France. The Senate's legitimacy would be reinforced and its partisan nature diminished, so that our influence on public policy would perhaps be broadened.

The number of committees has increased over the past few years. In my opinion, it would be better to reduce their number so as to increase their membership and increase their competency by setting aside more time to consider each issue, thereby ensuring more intimate knowledge of the possible options and of the interests at stake.

[English]

I am getting old, I guess, because I dream of it.

[Translation]

I thank the authorities of the Senate for their kindness to me, and in particular our distinguished Speaker and the Speaker *pro tempore*, as well as the leaders and leadership groups on both sides, both those who are present today and those who went before. I could mention the Honourable Senators Murray and Doody, among others.

I also thank all the honourable members of this house, and all the employees and managers of the institution, in all sectors including security, finance, and human resources, and especially the interpreters and translators, for whom I have, no doubt, presented quite a challenge.

A particular thank you to Hélène Lizotte, who was my admirable secretary for over a decade. A special thank you also to Claudette Houle, who replaced her with the same dedication.

Finally, I am very grateful to my wife, Gisèle. I have been very active for the last 40 or 50 years. All that time, she took care of everything at home: our four children, the twelve grandchildren, the household, our cultural and sporting life, trips and vacations — I owe her everything.

You see before you a man who is leaving with a deep sense of fulfilment and contentment.

The Hon. the Speaker *pro tempore*: Honourable senators, with your leave and on your behalf, I want to thank the Honourable Senator Bolduc for his excellent contribution. Senator Bolduc, you will be remembered in the Senate for a long time.

THE SENATE

EXPRESSION OF GRATITUDE TO STAFF

Hon. Lise Bacon: Honourable senators, before the Senate adjourns for the summer, I feel it is appropriate to express my gratitude to all the staff of our institution. Our staff provides the support we need to perform our parliamentary duties in the best way.

The Senate's team — managers, professionals, support staff — does first class work and make it possible for the Senate to carry out its mandate.

Senate employees are dedicated, conscientious and proud to serve a prestigious institution like ours.

• (1400)

The Committee on Internal Economy, Budgets and Administration is well aware of the dedication of the employees who help it achieve its mandate effectively. I, for one, have been impressed by the professionalism, availability and attention to detail of those who have worked with the Committee on Internal Economy, Budgets and Administration over the past few months. Their unwavering collaboration is truly to be commended.

I must mention the remarkable contribution of the key players in the work of the committee; the work of two people, in particular, stands out, that of Lucie Lavoie, coordinator of our secretariat and that of Heather Lank, director of committees.

I should also mention the essential contribution of Committee Clerk Paul Bélisle, his colleague, Catherine Pearl-Coté, Deputy Principal Clerk Blair Armitage, the directors of services — Hélène Lavoie, Serge Gourgue, Diane Boucher, Hélène Bouchard and Ann Dufour — not to mention Deputy Clerk Gary O'Brien, Law Clerk and Parliamentary Counsel Mark Audcent, and the Usher of the Black Rod, Terrance Christopher.

I especially want to underscore the fine work and merit of all the Senate employees. It is through their perseverance and determination that we are able to accomplish so much. I encourage them all to do more of the same, to continue to

strive for quality and to do so with their customary energy, which is essential to the smooth administration of the Senate. After a busy parliamentary session, the summer break is certainly welcome.

I would like to wish all employees an enjoyable summer. The time has come for you take a well-deserved rest. You can be sure that the fall will bring its share of challenges.

[English]

THE HONOURABLE E. LEO KOLBER

ARTICLE IN *NATIONAL POST*

Hon. E. Leo Kolber: Honourable senators, effective 5 o'clock today, I will be retiring as Chairman of the Standing Senate Committee and Banking, Trade and Commerce. In that regard, I was interviewed by a number of papers yesterday. One of them carried a headline that had nothing to do with the body of the story. As a matter of fact, unsolicited, the reporter called to apologize. We asked him if he would please put his apology in writing.

I now have in my hands that letter of apology. It is on the letterhead of the *National Post* and states:

Dear Senator Kolber

I write to express regret for the headline that appeared today over my article looking back over your Senate career. The headline, written by a night editor in Toronto without consultation with me, does not in my opinion reflect the tone or main theme of either our interview or my story.

I do sincerely apology for any inconvenience the headline may cause you, and hope it does not detract from what was, in the parlance of our industry, a really good yarn.

With best wishes
Ian Jack
Financial Post
Ottawa

I will deposit this letter with the clerk.

THE SENATE

INTRANET—LOST AND FOUND REGISTER— CONJECTURE BY MEDIA

Hon. Lowell Murray: Honourable senators, before we disperse, there is a matter that needs to be ventilated. Some weeks ago, an e-mail from the Clerk of the Senate drew our attention to a new feature on the parliamentary Intranet, namely, the posting of items lost and found in these precincts and turned over to the Senate Protective Service.

[Senator Bolduc]

A visit to this site reveals that between January 17 and April 9 of this year, the following items, among many others, have been lost and found: a pair of navy blue pants, the key to a set of handcuffs, a small purple handkerchief and a black notebook.

Unfortunately, we live in an information age. Still, do we have to excite the lurid imaginations of our enemies by making this raw data so readily available? Mark my words, the media will get hold of this. They will try to match the dates on which some of these items were lost with the dates of Liberal, and even Conservative, social events on the Hill. Inappropriate connection will be drawn between the handcuffs and Senator St. Germain's background as a police officer. Guest lists will be obtained and scrutinized of those fortunate enough to have dined at Mr. Speaker's gourmet table. Cartoons will appear, purporting to show a handcuffed, trouserless senator of either gender wandering our corridors, asking whether anyone has seen a pair of navy blue pants, the key to a set of handcuffs, a small purple handkerchief or a black notebook.

Is this the image we wish to project? Where will it all end?

I suggest the lost and found register be available to senators only and only on a need-to-know basis, and that it be maintained in the office of that most discreet servant of Her Majesty, the Usher of the Black Rod.

[Later]

Hon. Herbert O. Sparrow: Honourable senators, in reference to the statement made by Senator Murray about the lost and found items on the Intranet, he did not give us the complete story. I am wondering if I could ask him: Where might I be able to pick up my blue pants?

ASIAN HERITAGE MONTH

Hon. Mobina S. B. Jaffer: Honourable senators, I rise in honour of Asian Canadians in celebration of Asian Heritage Month.

Recently, I attended the Asian Heritage Awards dinner in Vancouver, organized by the Vancouver Asian Heritage Month Society. The theme was "Exploring the Silk Route."

The amazing parallel that exists between the silk route and Asian Canadians is the tremendous way that Asians have woven into Canadian culture despite difficulties new immigrants face. Many have had to face difficult situations and have triumphed over them. In this sense, they are much like a silk garment. Their efforts may be faced with difficulty but, with persistence, a bountiful life will be produced.

A number of extraordinary people and organizations were presented with awards for the significant impact they have had in the community and beyond. Those people are Roy Miki for "Transforming Art," David Lui for "Living Heritage," the Goh Ballet for "Building Community — Individual Category"

and Donna Spencer of the Firehall Arts Centre for "Building Community Organization Category." I congratulate the award recipients as well as all the nominees.

Honourable senators, the world around us is made up of a woven tapestry of people from different cultures, religions and backgrounds — each one perhaps a little different but always complementing the next.

The Vancouver Asian Heritage Month Society and other organizations like it help to foster a cross-cultural understanding among Canada's cultural communities. These efforts promote the intertwining of different cultures, helping us to see that friendship comes in all sizes and colours.

This kind of friendship is a true joy, and I am happy to be among such friends today.

Lastly, I encourage all honourable senators to celebrate the cultures that surround us every day with enthusiasm, acceptance and joy.

[Translation]

ROUTINE PROCEEDINGS

SENATE DELEGATION TO REPUBLIC OF POLAND

MARCH 4-9, 2003—REPORT TABLED

Hon. Raymond C. Setlakwe: Honourable senators, with leave of the Senate and notwithstanding rule 28(4), I have the honour of tabling the report of the delegation of the Senate, headed by the Speaker of the Senate, which visited the Republic of Poland at the invitation of His Excellency Longin Pastusiak, President of the Senate of the Republic of Poland, from March 4 to March 9, 2003.

[English]

SENATE DELEGATION TO RUSSIAN FEDERATION

MARCH 9-15, 2003—REPORT TABLED

Hon. Raymond Setlakwe: Honourable senators, I also ask leave to table the report of the parliamentary delegation, led by the Senate Speaker, that visited the Russian Federation at the invitation of His Excellency Mr. Sergei Mironov, Chairman of the Russian Federation Council, from March 9 to 15, 2003.

The Hon. the Speaker pro tempore: Honourable senators, is leave granted?

Hon. Senators: Agreed.

STUDY ON HEALTH CARE SERVICES AVAILABLE TO VETERANS

REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE TABLED

Hon. Michael A. Meighen: Honourable senators, I have the honour to table the fourteenth report of the Standing Senate Committee on National Security and Defence, which deals with the health care provided to veterans of war and of peacekeeping missions.

On motion of Senator Meighen, report placed on the Orders of the Day for consideration, at the next sitting of the Senate.

• (1410)

HERITAGE LIGHTHOUSE PROTECTION BILL

REPORT OF COMMITTEE

Hon. Marjory LeBreton, Deputy Chair of the Standing Senate on Social Affairs, Science and Technology, presented the following report:

Thursday, June 19, 2003

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

ELEVENTH REPORT

Your Committee, to which was referred Bill S-7, An Act to protect heritage lighthouses, has, in obedience to the Order of Reference of Tuesday, February 25, 2003, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

MARJORY LEBRETON
Deputy Chair

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the third time?

Hon. J. Michael Forrestall: Later this day.

Hon. Sharon Carstairs (Leader of the Government): At the next sitting.

The Hon. the Speaker *pro tempore*: Is leave granted, honourable senators?

Senator Carstairs: No.

On motion of Senator Forrestall, bill placed on the Orders of the Day for third reading, at the next sitting of the Senate.

MEMBERS OF PARLIAMENT RETIRING ALLOWANCES ACT PARLIAMENT OF CANADA ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. George J. Furey, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, June 19, 2003

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

SIXTH REPORT

Your Committee, to which was referred Bill C-39, An Act to amend the Members of Parliament Retiring Allowances Act and the Parliament of Canada Act, has, in obedience to the Order of Reference of Wednesday, June 11, 2003, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

GEORGE FUREY
Chair

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the third time?

On motion of Senator Furey, bill placed on the Orders of the Day for third reading, at the next sitting of the Senate.

CANADA ELECTIONS ACT INCOME TAX ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. George J. Furey, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, June 19, 2003

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

SEVENTH REPORT

Your Committee, to which was referred Bill C-24, An Act to amend the Canada Elections Act and the Income Tax Act (political financing), has, in obedience to the Order of Reference of Monday, June 16, 2003, examined the said Bill and now reports the same without amendment.

Your Committee notes that it instructed the Law Clerk and Parliamentary Counsel to make the following clerical corrections in the parchment, in clause 25, of the French version:

(a) on page 31, by replacing line 35 with the following: "405.3(2)b)(i);";

(b) on page 33,

(i) by replacing line 25 with the following: "(2.1) Par dérogation au sous-alinéa (2)b(i), si deux";

(ii) by replacing line 41 with the following: "titre du paragraphe (2.1) à l'association enre-"; and

(c) on page 34,

(i) by replacing line 1 with the following: "(2.3) Par dérogation au sous-alinéa (2)b(i), si une"; and

(ii) by replacing line 15 with the following: "titre du paragraphe (2.3) au candidat soutenu".

Respectfully submitted,

GEORGE FUREY
Chair

The Hon. the Speaker pro tempore: Honourable senators, when will this bill be read the third time?

Hon. Fernand Robichaud (Deputy Leader of the Government): With leave of the Senate, later this day.

The Hon. the Speaker pro tempore: Is leave granted, honourable senators?

Hon. Senators: Agreed.

On motion of Senator Robichaud, bill placed on the Orders of the Day for third reading, later this day.

STUDY ON STATE OF DOMESTIC AND INTERNATIONAL FINANCIAL SYSTEM

INTERIM REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE TABLED

Hon. E. Leo Kolber: Honourable senators, I have the honour to table the twelfth report of the Standing Senate Committee on Banking, Trade and Commerce, concerning its special study on the present state of the domestic and international financial system, entitled: "Navigating Through 'the Perfect Storm': Safeguards to Restore Investor Confidence."

On motion of Senator Kolber, report placed on the Orders of the Day for consideration, at the next sitting of the Senate.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I draw your attention to the presence, in our gallery, of a delegation from the Kingdom of Bahrain, led by His Excellency Dr. Faisal Al-Mousawi, President of the Bahraini Shura Council, the equivalent of our Senate. He is accompanied by the Honourable Abdulrahman Jamsheer, First Vice-President of the Shura Council; the Honourable Ebrahim Bashmi, Chairman of the Legal and Legislative Committee of the Shura Council; and Mr. Ismail Akbari, Director of Public Relations, Media and Protocol for the Shura Council. They are the guests of Senator Jaffer and Senator Prud'homme.

Welcome to our Senate.

Hon. Senators: Hear, hear!

• (1420)

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED TO MEET DURING ADJOURNMENT OF THE SENATE

Hon. Marjory LeBreton: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on Social Affairs, Science and Technology be empowered, in accordance with rule 95(3)(a), to sit on September 16, 17 and 18, 2003, even though the Senate may then be adjourned for a period exceeding one week.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, can the deputy chair of the committee assure us that all members of her committee are in agreement and that the staff who will be required, as discussed here before, will not have any of their vacation or holiday time disrupted by this proposal? I am sure those days are fine, but the point that I will make, whenever a similar motion is raised, will be to ask for assurance that all members have agreed to attend and can and will attend, and that the staff required will not have their holidays disrupted as a result.

Senator LeBreton: Yes, honourable senators, I can give that assurance. We put the motion forward because that is the week Parliament is scheduled to return. In case some other event were to intervene at that time, we decided to put the motion. Everyone on the committee is in agreement. The staff, of course, will be here.

[Translation]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, should the Senate be sitting during the week of September 15, since our calendar indicates that we are to return on September 16, 2003, this would have the effect of nullifying Senator LeBreton's motion.

[English]

Hon. Marcel Prud'homme: Honourable senators, since Senator Lynch-Staunton was just on his feet, I think, in good spirit, all senators would want to join in wishing him a happy birthday today.

Hon. Senators: Hear, hear!

[English]

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

NATIONAL SECURITY AND DEFENCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY VETERANS' SERVICES AND BENEFITS, COMMEMORATIVE ACTIVITIES AND CHARTER

Hon. Michael A. Meighen: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on National Security and Defence be authorized to undertake a study on:

(a) the services and benefits provided to veterans of war and peacekeeping missions in recognition of their services to Canada, in particular examining:

- access to priority beds for veterans in community hospitals;
- availability of alternative housing and enhanced home care;
- standardization of services throughout Canada;
- monitoring and accreditation of long-term care facilities;

(b) the commemorative activities undertaken by the Department of Veterans Affairs to keep alive for all Canadians the memories of the veterans' achievements and sacrifices; and

(c) the need for an updated Veterans Charter to outline the right to preventative care, family support, treatment and re-establishment benefits;

That the Committee report no later than June 30, 2004.

[Translation]

ACADIAN YEAR, 2004

NOTICE OF MOTION REQUESTING GOVERNMENT RECOGNITION

Hon. Rose-Marie Losier-Cool: Honourable senators, I hereby give notice that on Tuesday, September 16, I shall move:

That the Senate of Canada recommends that the Government of Canada recognize the year 2004 as the Acadian Year.

QUESTION PERIOD

HEALTH

SEVERE ACUTE RESPIRATORY SYNDROME— FUNDS TO DEVELOP VACCINE

Hon. Brenda M. Robertson: Honourable senators, there are reports that public health officials in Toronto are tracking down 120 suspected cases of SARS that possibly went previously undiagnosed. The National Microbiology Lab in Winnipeg says that these people had tested positive for the SARS corona virus but had shown only mild symptoms and had not been classified as either a suspected or a probable case. This news is combined with a report today from the World Health Organization that, although the SARS virus was previously thought to be stable, it is now mutating. The World Health Organization is calling upon governments to invest heavily in finding a vaccine.

Could the Leader of the Government in the Senate tell us if the federal government is allocating additional resources for work on a SARS vaccine?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I cannot say whether funds have been put aside specifically for the vaccine. I can assure honourable senators that I will bring the question to the attention of the Minister of Health and urge the Canadian Institutes of Health Research to do all they can to contribute to that investigation.

SEVERE ACUTE RESPIRATORY SYNDROME— INFECTION CONTROL PROCEDURES

Hon. Brenda M. Robertson: Honourable senators, the Ontario Nurses' Association has expressed concern that, as the number of SARS cases appears to be, once again, on the decline, infection control practices are being relaxed in Toronto-area hospitals. The nurses' association says that strict infection-control procedures are still needed and that hospitals must also have inspections to make sure masks and other protective gear fit properly and are effective.

Can the minister advise if Health Canada is working with its provincial and municipal counterparts to ensure that strict protective measures remain in place in all Toronto hospitals, as long as there are active SARS cases?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I can assure my honourable friend that the federal government has been working on a daily basis with municipal and provincial authorities with respect to the SARS outbreak. I have no information that would indicate that infection-control procedures have been reduced in any way. In fact, to the contrary, I have been advised that they remain at a very high level.

CANADIAN INSTITUTES FOR HEALTH RESEARCH—
STEM CELL NETWORK RESEARCH ON
SURPLUS HUMAN EMBRYOS

Hon. Wilbert J. Keon: Honourable senators, I have a question for the Leader of the Government in the Senate. The Stem Cell Network is a group of 65 researchers under the federal Networks of Centres of Excellence. That group has announced that it will proceed with stem cell research on surplus human embryos despite the fact that a bill regulating such research is still before Parliament. In fact, Bill C-13, the assisted human reproduction bill, is at report stage in the other place and may not reach this chamber for quite some time.

What is the federal government's position on this matter? Does it approve of embryonic stem cell research going forward without the legislation being in place?

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for his question. As he knows, the Canadian Institutes of Health Research is an arm's-length organization, but I have information which leads me to believe that the process of actually funding those research proposals will take a considerable length of time. The process is at a very preliminary stage, at this point. It is our hope that the legislation will be passed before the actual funding is awarded.

• (1430)

Senator Keon: I thank the minister for her response.

The mention of funding leads me to my next point. The researchers say that they will follow the research guidelines set out by CIHR. Last spring, CIHR was accused of trying to circumvent Parliament when it announced its own guidelines for funding research on aborted fetal tissue and surplus embryos. As a result of that criticism, CIHR said it would not disburse embryonic research funds until April 2003, allowing time for the passage of legislation. That date has come and gone. It now appears that CIHR will move forward on this matter on its own.

Will the federal government request that CIHR refrain from distributing research funds for embryonic stem cell research until Parliament has passed legislation? The Leader of the Government in the Senate has partially answered this question, but perhaps she would expand on it.

Senator Carstairs: I thank the honourable senator for his question. It is my understanding that Parliament cannot dictate to the CIHR what it can fund and what it cannot fund. I do know that, according to CIHR's own information, it will take a considerable amount of time to put the protocols in place before the funding is granted. I believe that we would all like to see legislation in place before the funding is granted.

WEST NILE VIRUS—STOCKPILING OF BLOOD—
SCREENING TEST

Hon. Donald H. Oliver: Honourable senators, in advance of full-scale testing of donated blood to begin July 1, the Canadian Blood Service has begun testing some of the blood supply for the West Nile virus. However, this testing will not apply to blood

products that were already stockpiled between February and May of this year. This is troubling, because some birds have died of the disease much earlier this year compared to last year, suggesting that there is a greater chance that there are already human infections as well.

My question to the Leader of the Government in the Senate is: Why will the blood product stockpile not be tested, even in part, for contamination with the West Nile virus?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I had taken that question as notice for Senator Keon who posed it last week. I have not yet received a definitive answer on that matter and must wait until I do, before I will be able to answer this question.

WEST NILE VIRUS—SUSPECTED CASE IN WALPOLE
ISLAND, ONTARIO—BLOOD DONATIONS IN REGION

Hon. Donald H. Oliver: Honourable senators, a delayed answer was given on Monday to a question posed last week by Senator Keon regarding whether blood collections were taken in the Walpole Island area of Ontario, while a suspected case of West Nile in a young boy was being investigated there. The response stated that blood clinics were not operated in the area in which the boy resides, during that period.

Could the Leader of the Government tell us if it is the standard practice of Canadian Blood Services and Héma-Québec to suspend blood collections in an area with a suspected case of West Nile virus? Was it a coincidence that there were no blood clinics in operation at the time of this particular incident?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I cannot answer that question. I do not know whether it was coincidental that blood clinics were not being run there at that time or whether it is a matter of policy.

As the honourable senator will know, we are not dealing with a service that is a branch of the Government of Canada. The Canadian Blood Services is an arm's-length blood services institution. However, I will endeavour to find out that information for the honourable senator.

FOREIGN AFFAIRS

UNITED STATES—FRIENDLY FIRE INCIDENT IN
AFGHANISTAN INVOLVING TWO FIGHTER PILOTS—
DECISION NOT TO HOLD COURT MARTIAL HEARINGS

Hon. J. Michael Forrestall: My question is for the Leader of the Government in the Senate. Would she make a statement or some comments about the news reports circulating today, that the United States government does not intend to proceed with criminal charges against the two F-16 pilots who were found negligent by a joint Canada-United States board of inquiry for the deaths of four Canadian soldiers in the friendly fire incident?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the latest information I have is that the report, although speculation as to what it may contain has been given wide publicity, has not yet been filed. I do not know what that filed report will say but, in any case, it will be a matter for the United States justice officials and not a matter for Canadians.

Senator Forrestall: I appreciate the difficulty that poses.

NATIONAL DEFENCE

AFGHANISTAN—LEADERSHIP OF PEACEKEEPING MISSION—SAFETY PROCEDURES FOR TROOPS

Hon. J. Michael Forrestall: As the leader will know, in the last several days, there have been many demands from NGOs, the UN and the President of Pakistan, on unrelated matters. Has the government given any thought to these demands, inquiries and security concerns in Kabul and the rest of Afghanistan on the eve of Canada's intended deployment of 1,800 troops?

Will force leadership be the responsibility of a member of the Canadian Forces? Will the Leader of the Government in the Senate enlighten us as to what specific steps, if any, Canada has taken to avoid a repetition of that most unfortunate incident?

Hon. Sharon Carstairs (Leader of the Government): As the honourable senator knows, the command of the troops that we send in late August will be, for the first six months, under German control. It will then revert to our control for the next six months. As I understand it, as experience is gained, the leadership moves to a command position over the combined forces to ensure safety in the Kabul area.

As the honourable senator well knows, although the main thrust will be a peacekeeping endeavour and helping with the stabilization and reconstruction of Afghanistan, there is always danger involved in any peacekeeping mission. Our troops will go into that theatre understanding that danger and they will be encouraged to take all possible precautions.

Senator Forrestall: Will the Leader of the Government, in her capacity as a member of the government, give us an assurance that, as a result of one-on-one consultations with their counterparts in the United States, there is in place an acceptable rule of procedure with respect to live exercise and overflights that would assure greater safety for our troops and others?

Senator Carstairs: I thank the honourable senator for his question. As he knows, the theatre that the troops are now entering is not technically a theatre of war, as it was when our troops were last there.

The honourable senator raises an important question and that is, if there are live exercise operations going on at the same time as overflights are being undertaken, we must have in place appropriate procedures and protocols. My understanding is that they have fine-tuned those procedures and protocols. Hopefully, we do not learn that they are not yet adequate by the recurrence of such a tragic accident.

Senator Forrestall: I did not understand that it was a theatre of war. I have always understood that it is a zone where the threat of serious injury is apparent. This is not a peacekeeping mission.

To that end, I would ask the Leader of the Government to give us a general assurance that the same benefits of protection that apply when Canadian troops are in a war zone are being provided to them during their period in Afghanistan.

Senator Carstairs: Honourable senators, my understanding is that the peacekeepers will go in with that complete assurance. However, I would clarify for the honourable senator that it is not considered a war zone in the technical sense of the phrase, because we have now moved on to a stabilization and reconstruction period. The troops are there principally as peacekeepers. Having said that, we know that the situation in Kabul is, on occasion, not peaceful.

Senator Forrestall: I do not remember the war ending.

SOLICITOR GENERAL

GUN CONTROL PROGRAM—BLUE RIBBON PANEL

Hon. Terry Stratton: My question is addressed to the Leader of the Government in the Senate. I notice that a recent shift of the gun control program from the jurisdiction of the Minister of Justice to the Solicitor General has triggered the formation of yet another advisory committee, this time a blue ribbon panel. It travels a well-blazed path taken by Minister Rock in 1995, when the User Group on Firearms was created with a panel of part-time volunteers to provide advice to the minister. That group is still in existence. There was also a committee of chief firearms officers and a steering committee of representatives from a number of federal departments and agencies.

• (1440)

In addition, over the years, a range of other advisory panels and working groups has been struck, including the Firearms Smuggling Working Group, the Core Group on the Illegal Movement of Firearms, the National Weapons Enforcement Support Team and a working group to establish a First Nations' Approach to Firearms. That is quite a list, and they have created yet another one.

While one might congratulate the minister on his initiative in seeking what is obviously badly needed advice, considering the cost overruns and the general state of chaos that appears to prevail in the Firearms Control Program, perhaps the Leader of the Government in the Senate can advise us whether the Minister of Justice has already sought, received and then rejected the advice of the user group, or is he just going to ignore the recommendations as did his predecessor?

Hon. Sharon Carstairs (Leader of the Government): The federal Solicitor General, as the honourable senator knows, announced on June 18, the establishment of a program advisory committee for the Canadian Firearms Program. This was a key part of the action plan that was announced in February. The individuals who would serve in a voluntary capacity, by the way, will provide ongoing advice on quality of service and a continuous improvement plan for the firearms program.

Senator Stratton: There are quite a number of advisory panels or working groups. Will all the other groups listed be disbanded or put to work? What will happen to them?

Senator Carstairs: Honourable senators, I do not know the status of the other user groups. Most, of course, were put in place for the implementation of the program. Now that it has been implemented, we must move on to the stage of ensuring quality of service and that any further improvements to be made can be made. However, I will, on behalf of Senator Stratton, ask the Solicitor General about the status of all those other groups.

FOREIGN AFFAIRS

IRAQ—REQUEST FOR COMMENT ON DECISION NOT TO PARTICIPATE IN WAR

Hon. Douglas Roche: My question is for the Leader of the Government.

Three months have passed since the war against Iraq ended, a war fought by the United States on the grounds that Iraq had imminent capacity to use weapons of mass destruction. Despite an extensive search of Iraq by U.S. inspectors, no such weapons have been found.

Many people were killed in the war, and Iraq is in a state of continuing disorder. Canada's decision not to join in this war because of lack of UN authorization is looking better all the time. Does the minister have any comment on this?

Hon. Sharon Carstairs (Leader of the Government): Not other than to say that I agree with the honourable senator, that the decision made by the Canadian government was the correct one.

IRAN—POSSIBLE MANUFACTURE OF NUCLEAR WEAPONS

Hon. Douglas Roche: The U.S. is now charging that Iran has nuclear weapons. However, a report released this week by the International Atomic Energy Agency, which completed an investigation inside the country, does not indicate that Iran has nuclear weapons, but it does state that Iran should better report on its nuclear materials, materials used for nuclear energy, and that it should sign the IAEA Additional Protocol.

Is the Government of Canada presently counselling the U.S. not to rush to judgment in this matter and to lower the tone of its belligerence against Iran?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I do not know that it is appropriate for the Government of Canada to lecture the Government of the United States. What is appropriate is for the Government of Canada to identify its concerns and, to be fair, it has some concerns, about Iran's nuclear program.

The IAEA has indicated that they believe Iran seems to be, on first observation, using its nuclear materials for peaceful purposes, that is, to provide services to its citizenry, but some concerns have been expressed that this could move, as it has moved in other nations, to the active development of nuclear power for weapons usage.

Senator Roche: Just to be clear on the record, I did not say that Canada should lecture the U.S. I used the word "counselling," in its wide definition of that word, through our representatives of the IAEA.

Honourable senators, it is true that nuclear materials for power can find their way into weaponry, but inasmuch as the IAEA has said that there is no evidence of this happening, I believe there is a role for Canada to play internationally to calm waters before they become turbulent. Canada can play a role in heading off the anticipation of future turbulence.

I would appreciate the leader's comments on that.

Senator Carstairs: Honourable senators, the concern is that these facilities were built in secret. They were not declared to the IAEA therefore not placed under safeguards, and that does raise serious concerns, not only for the United States, it appears, but also for Canada, because we do not want to see the proliferation of nuclear weapons.

ISRAEL—SIGNING OF NUCLEAR NON-PROLIFERATION TREATY

Hon. Marcel Prud'homme: Honourable senators, on the subject of the proliferation of nuclear arms, we now know that the United States of America, our friend and neighbour — and I say that in front of the delegation — is now sending very strange signals to Iran about its nuclear capabilities.

Is Canada not now in a position to tell our friends in Israel, who have never signed any treaty on nuclear, chemical or biological weapons, that we must call a spade a spade and say that what is good for certain regions is also good for the State of Israel? This could prevent another arm's race such as the one that developed in the 1940s between the United States of America and Russia. Is it not the time to officially and publicly say we are good friends? Why do we not try to diminish this arm's race, and stop asking one part of the world to do what we are not ready to ask of another part?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, we would like to have all nations participate in the non-proliferation treaty. That is very clear. However, to the best of my knowledge, and I think I am absolutely accurate on this, Israel has built nothing in secret. Israel has complied with all of the IAEA requirements.

Senator Prud'homme: When I was chairman of the Foreign Affairs Committee it was forbidden for me to even mention that it existed, and they never admitted it existed. They said, "We may, we may not." However, they never admitted they had. They have not signed a treaty and I am concerned about that.

Before we recess for the summer, I wish to say that Canada is well-liked and the time has come to use the good reputation we have in the region to ask them why they have not signed. That would send a signal to the others to do likewise.

Senator Carstairs: Honourable senators, I will make the honourable senator's views known to the Minister of Foreign Affairs.

SOLICITOR GENERAL

GUN CONTROL PROGRAM—BLUE RIBBON PANEL— EFFECT OF EARLIER REPORT BY INUIT WORKING GROUP ON THE FIREARMS ACT AND REGULATIONS

Hon. Charlie Watt: Honourable senators, my question relates to the point raised by Senator Stratton regarding the list of those groups involved in gun control.

I led the Inuit Working Group on the Firearms Act and Regulations, and we tried to find solutions to the concerns expressed by Aboriginal people regarding Bill C-68. We prepared a report that was tabled a year ago. It was handed to the Minister of Justice and we did receive a response. Basically, the Minister of Justice did not want to deal with the two important issues that we highlighted in our report. I will not go into those because it would take me a long time to discuss them.

• (1450)

Will the leadership find out from the minister responsible, who I believe is the Solicitor General, whether he has the same concerns as the Minister of Justice had with regard to the report we tabled? There is no sense in proceeding further unless the government is willing to address the two fundamental issues raised in our report.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the easiest way for the honourable senator to get that information would be to direct a letter to the honourable minister responsible for the firearms initiative. Senator Watt's group was not an official group in that it was not nominated and appointed by the Minister of Justice. However, if Senator Watt wishes to have clarification on a report sent to the minister, I am sure the minister would provide it, should it be requested of him.

[Translation]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour of tabling, in the Senate, three delayed answers. The first is in response to the oral question raised in the Senate by the Honourable Senator Rivest, on

March 26, 2003, concerning the number of Canadian citizens in Iraq; the second is in response to questions raised in the Senate by the Honourable Senator Atkins, on June 5, 2003, concerning national defence, efforts to design a new logo and the relationship between contracted companies; and the third is in response to the oral question raised in the Senate by the Honourable Senator Kelleher, on June 13, 2003, concerning the Minister of Finance, the mid-term economic update.

FOREIGN AFFAIRS

NUMBER OF CANADIAN CITIZENS IN IRAQ

(Response to question raised by Hon. Jean-Claude Rivest on March 26, 2003.)

As of 12 June 2003, there were 79 Canadians who had registered their presence in Iraq with the Canadian Embassy in Amman. Information provided on the registration form is collected under the auspices of the *Privacy Act* and details surrounding the registration, including employer information, are kept in strict confidence.

Providing humanitarian assistance to respond to the needs of civilians affected by the conflict has been a key priority for Canada. On 26 March 2003, Canada, through the Canadian International Development Agency, committed \$100 million in humanitarian assistance for the people of Iraq. Of this, Canada has disbursed \$60 million, mainly through UN agencies and the Red Cross, to help to ensure war-affected Iraqis have access to clean water and proper sanitation, food and shelter and primary health care. These funds also supported protection activities for the internally displaced and war affected children, mine action activities and the safety and security of humanitarian workers.

In addition, on 14 May, Canada announced a further \$200 million for humanitarian and reconstruction assistance for Iraq, bringing Canada's total to more than \$300 million. The new funding will help Iraqi authorities to further improve basic services, and will support Iraqi efforts to build strong democratic institutions, reform judicial, police and correctional services, strengthen civil society and promote human rights. Canada will also work with neighbouring countries to address the political, economic and social challenges and opportunities created by the new situation.

Canada remains committed to all efforts to restore peace and security to Iraq and the region, and will continue to work to ensure that goal is achieved. We will work in partnership with the UN, the international community, and all of our key international and regional allies, to ensure we are best meeting the needs of the Iraqi people.

NATIONAL DEFENCE

EFFORTS TO DESIGN NEW LOGO—
RELATIONSHIP BETWEEN CONTRACTED COMPANIES

(Response to questions raised by Hon. Norman K. Atkins on June 5, 2003)

The Department of National Defence's Creative Services (Communications) develop innovative information and recruitment campaigns and projects for the Canadian Armed Forces.

In 1999, after being selected through a PWGSC competition, the firm Créatec Plus conducted public opinion research on publicity and promotional documents for the department. This firm is currently the only one with which the department has concluded a standing offer for this kind of research. It does not contribute in any way to concept development, but merely reports comments from target groups.

In 1999, after being selected through a PWGSC competition, the firm Groupaction Marketing Inc. provided publicity management services to the department. In 2001, the firm submitted creative concepts for the logo design project to the department.

We are not aware of any relationship between Créatec Plus and Groupaction Marketing Inc.

FINANCE

MID-TERM ECONOMIC UPDATE

(Response to question raised by Hon. James F. Kelleher on June 13, 2003)

John Manley, Deputy Prime Minister and Minister of Finance, will be the guest speaker at a breakfast hosted by the Economic Club of Toronto on Wednesday, June 25, 2003.

Minister Manley's speech will review Canada's economic success in recent years and look ahead at the future challenges the country faces.

The event will take place at 7:45 a.m. in the Grand Ballroom, Lower Concourse Level at The Sheraton Centre Toronto Hotel, 123 Queen Street West, in Toronto.

[English]

TRIBUTE TO PAGES ON DEPARTURE

The Hon. the Speaker: Honourable senators, before calling Orders of the Day, there are several things we should do. One is to say goodbye to some of the pages who have been serving us and will not be returning.

I will start with Catherine Cecchini from Timmins, Ontario, who will be entering her third year at the University of Ottawa where she is pursuing an honours program in psychology with concentration in criminology. If her plans to become a senator do not work out, she plans to obtain her doctorate in psychology.

[Translation]

Patricia Lapointe is from Sainte-Anne-des-Plaines, Quebec. She has just earned her degree from the University of Ottawa where she majored in communications and minored in geography. She intends to pursue a career in international development and plans to do a master's in business administration at a school abroad.

[English]

Jonathan Shanks, from Fredericton, New Brunswick, is returning to the University of Ottawa in the fall to complete his degree in history. Jonathan hopes to continue on to graduate school.

[Translation]

Abdullah Afzal from Afghanistan has just completed two years as a page at the Senate.

[English]

He also finished his second year at the University of Ottawa in political science. In September, he will begin a civil law degree at the University of Ottawa. This summer he will be working with the Clerk of the Senate.

Finally, Melanie Bratkoski is finishing her third year as a page here and her second as chief page. Next year, she will return to the University of Regina to complete her bachelor of arts degree majoring in Canadian studies. She also plans to pursue her master's in hospital administration.

To all of the pages, on behalf of all of us here — senators, the Table and the Senate team — we thank you for your good service to us and for your patience. We appreciate very much the opportunity to have known you. Thank you very much.

[Translation]

QUESTION OF PRIVILEGE

SPEAKER'S RULING

The Hon. the Speaker: Following the proper notice requirements, Senator Murray stood in his place at the conclusion of Orders of the Day last Monday, June 16 to raise a question of privilege. The matter that the Senator brought to the attention of the Senate relates to events that have recently occurred in the other place with respect to an investigation into the conduct of the Privacy Commissioner, Mr. George Radwanski. Senator Murray explained that as a consequence of accusations made against Mr. Radwanski by a committee of the House of Commons and the failure of the government to accept its responsibility and take timely parliamentary action to deal with this matter, Mr. Radwanski, who is an Officer of Parliament, is now in an untenable position.

[English]

After detailing the history of this situation, Senator Murray concluded with this declaration:

As far as the dignity of Parliament is concerned and as far as our rights, our reputation and the status of one of our officers are concerned, we cannot allow matters to stand where they are.

This, then, is the basis of the question of privilege that Senator Murray has raised. The senator seems to favour the idea that the government ought to recall the House of Commons to resolve the situation of Mr. Radwanski's status one way or the other. As an alternative, Senator Murray raised the possibility of the Senate inviting the Privacy Commissioner to appear before the Committee of the Whole.

Other senators spoke to the issue. Senator Carstairs, the Leader of the Government, explained that since the matter involved the House of Commons, it might not be proper for the Senate to interfere. In the course of her intervention, the senator said:

The two Houses work quite independently from one another. What we are doing is using a question of privilege to call into question the proceedings of the other place....

As a chamber, I do not know exactly what we can do.

[Translation]

The issue was then broadly canvassed by other senators who spoke on the question of privilege including Senator Kinsella, the Deputy Leader of the Opposition, Senator Cools, Senator Fraser and Senator Joyal.

[English]

I wish to thank all honourable senators who participated in this discussion. It has assisted me in coming to terms with the issues that are relevant in this question of privilege.

Let me begin by stating that my role as Speaker is to apply the provisions of rule 43, which list the criteria I must apply in evaluating any claim of a question of privilege. In carrying out this responsibility, I am not assessing the merits of the case itself. It is not for me to pronounce on the circumstances in which Mr. Radwanski now finds himself or how he arrived at this position. My task is to determine whether this question merits consideration as a question of privilege, giving it a priority status that would then be resolved through a decision of the Senate. My ruling only concerns whether or not, on a *prima facie* basis, the issue that has been raised by Senator Murray deserves to be treated as a question of privilege.

Rule 43(1) lists four criteria that I need to evaluate with respect to this issue. The first has to do with timing: Was the matter raised at the earliest opportunity? Given that Senator Murray brought up this subject as a result of the summer adjournment of the House of Commons that occurred last Friday, I am satisfied that the question was raised at the earliest opportunity.

[Translation]

I am less certain about the applicability of the remaining three criteria. It must, for example, "be a matter directly concerning the privileges of the Senate, of any committee thereof, or any

senator." Senator Murray, as well as several other senators, pointed out that Mr. Radwanski, as the Privacy Commissioner, is a Parliamentary Officer. This is certainly true, but the actions complained of were taken by a committee of the House of Commons. As a Senate and as senators, we might dispute what has occurred in the other place, but as Senator Carstairs pointed out, both Houses are fully independent and autonomous. Each are entitled to the protection of privilege and each have the right to conduct their proceedings as they see fit. I do not see how the Senate can invoke privilege in this case to challenge what was done in the other place.

[English]

As to whether the question of privilege is "raised to seek a genuine remedy, which is in the Senate's power to provide, and for which no other parliamentary process is reasonably available," the third criterion stipulated in rule 43(1), again I see a problem. Insofar as the preferred remedy raised by Senator Murray is that the government should request the Speaker to recall the House of Commons so that the status of Mr. Radwanski as the Privacy Commissioner could be resolved, this is not a solution that is within the power of the Senate to provide. Any recall that the government might undertake would be made pursuant to its prerogative as the executive. The Senate has no role in this kind of decision.

• (1500)

As an alternative, Senator Murray suggested that the Senate could invite Mr. Radwanski to appear in Committee of the Whole. This is certainly within the Senate's authority, but it is also a "parliamentary process that is reasonably available." As an option, it does not require a ruling by me on a question of privilege. I believe that it would be more appropriate for the Senate itself to consider this course of action by way of the necessary motion moved in accordance with our usual practices. In this regard, I share the view expressed by Senator Cools, though perhaps for different reasons, that this is a decision for the Senate that should not be prompted by a ruling from the Chair.

Finally, with respect to the fourth criterion that the alleged question of privilege must "be raised to correct a grave and serious breach," I am obliged to state that while the matter appears to be a serious one, I do not think that it is one of parliamentary privilege. It may be that the action or, more accurately, inaction of the House of Commons raises some serious issues about natural justice, as some senators mentioned in their comments, but this does not make it a question of privilege that falls within the responsibility of the Senate.

If the Senate wishes to consider the issues involved in the circumstances surrounding the current status of the Privacy Commissioner, there are means readily available. As I have already noted, Senator Murray has mentioned one of them and there are others. For this and the other reasons that I have explained, it is my decision that there is no *prima facie* question of privilege in this case that can be addressed using rule 43.

ORDERS OF THE DAY

ANTARCTIC ENVIRONMENTAL PROTECTION BILL

SECOND READING—DEBATE ADJOURNED

Hon. Ione Christensen moved the second reading of Bill C-42, respecting the protection of the Antarctic Environment.

She said: Honourable senators, the Antarctic is home to the largest and most pristine wilderness on earth. It covers an area of 14 million square kilometres, one and a half times the size of Canada. It is made inhospitable by extreme cold, a massive permanent ice sheet and floating ice shelves. Less than 0.5 per cent of the continent is ice free.

Remarkably, the Antarctic sustains thousands of forms of life, many of which are unique to that region. Marine mammals, such as seals and whales, are found there in numbers that are greater than are found in the Arctic region. It also plays a critical role in the global climate system. It is an indicator of climate change, which affects all of us.

Honourable senators will remember the news story of last year about a large iceberg that broke off the Larsen Ice Shelf.

This continent plays a major role in the oceans of the world, and its natural ecosystems provide opportunities for scientific research to help us understand more about cold climates and the planet's weather and ocean systems. Scientific research is the major human activity carried out in Antarctica. It is important for science, providing an unparalleled natural laboratory for undertaking research of global relevance. However, much of the environment and scientific value of Antarctica will be lost if it is allowed to be polluted or significantly disturbed.

Honourable senators, Bill C-42 will enable Canada to fulfill its obligations to protect the globally significant ecosystem that is the Antarctic. It will enable Canada to ratify the Madrid Protocol, which is required by the Protocol on Environmental Protection to the Antarctic Treaty to which Canada is a signatory. This protocol was drafted in 1991 to protect the Antarctic environment.

As a polar nation and as an international environmental leader, we in Canada understand very well the threats to polar environments, such as the human disturbance of flora and fauna, the threats of invasive alien species, marine pollution, climate change and contamination. We understand those threats. We are working hard to address them ourselves in our own polar regions. Perhaps that is why Canadians who are active in the Antarctic have continually operated under the principles of the protocol. Therefore, honourable senators, we are not fixing something that is wrong. We are affirming that the way we have conducted ourselves to date is the way that we must continue to conduct ourselves in the future. We want to make sure that Antarctica remains pristine for future generations. For that reason, we are proposing this enabling legislation, Bill C-42.

This bill has been developed in a manner consistent with established Canadian legal policies and practices and is in accordance with international law. It is consistent with the approach taken by other countries.

The protocol demands that all parties are responsible for their nationals in the Antarctic. To enable the Government of Canada to oversee the activities of Canadians in the region, the bill requires that permits be issued for people on Canadian expeditions, Canadian vessels and in Canadian aircraft. Every permit application would be subject to an environmental impact assessment and would require the preparation of waste management and environmental emergency plans. Every permit holder would be required to monitor and report on his or her activities.

Honourable senators, the environmental assessment provisions required to be met under this bill are based on those of the protocol which are even more rigorous than those defined in the Canadian Environmental Assessment Act.

The bill establishes a series of prohibitions put forth in the protocol, but it also provides for exceptions in the case of emergency or for scientific research.

The bill also includes provisions which will enable Canada to fulfill its reporting obligations under the Madrid Protocol and the Antarctic Treaty.

It may be helpful to understand something about the Antarctic Treaty. It was signed in 1961 to dedicate the region south of 60 degrees latitude to both science and peace. There is no other spot on earth that has such a designation. In such times as we are experiencing today, we could use more such areas on this old planet. With this designation comes the prohibition of any military activity, nuclear tests and disposal of radioactive wastes. There is also the promotion of cooperation in scientific research and the suspension of sovereignty claims. That is why we can truly say Antarctica belongs to the world.

Under the Antarctic Treaty system, there are several agreements. There is the Antarctic Treaty and the Convention for the Conservation of Antarctic Marine Living Resources of 1980, both of which Canada acceded to in 1988, and the Convention for the Conservation of Antarctic Seals of 1972, to which Canada acceded in 1990.

• (1510)

Finally, there is the Protocol on Environmental Protection to the Antarctic Treaty, the Madrid Protocol, which we are addressing here, and it is time for us to provide the legislative base required to ratify this integral piece.

I would like to give honourable senators a few details on the Madrid Protocol. It entered into force in 1998, and 30 nations have ratified it. It has always been our intent to ratify this important international environmental agreement since we signed it in 1991. Approximately 37 Canadian scientists are involved in Antarctic research, and two Canadian companies lead eco-tours there each year. Canadians constitute roughly 400 of the more than 11,000 tourists who land on Antarctica each year.

The intent of the ratification is to formalize Canada's part in the global effort to protect the Antarctic and to provide clarity on Canada's role to other countries and Canada's activities in the region. All stakeholders are supportive of this ratification and the approach to implementation.

I think we can say that many of the key environmental, economic and social challenges that Canada faces must be addressed through cooperation and global action. We have done that on the issue of the ozone layer depletion, on climate change and on a wide range of economic issues.

This ratification is important to enhance those international partnerships, honourable senators, and I recommend it to you. I ask for your support in passing Bill C-42.

On motion of Senator Spivak, debate adjourned.

[Translation]

NATIONAL FINANCE

COMMITTEE AUTHORIZED TO MEET DURING ADJOURNMENT OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government) moved:

That, pursuant to rule 95(3), the Standing Senate Committee on National Finance be authorized to meet during the period September 1 to 16, 2003, even though the Senate may then be adjourned for a period exceeding a week.

He said: Honourable senators, the Standing Senate Committee on National Finance is considering Bill C-25 and has started to hear witnesses. The members of the committee and the chair agree that the committee should receive this authorization in order to continue its work during the period referred to. It is simply because the committee has a bill before it and wants to do its work.

[English]

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I hope that the deputy leader realizes that our side has a caucus in St. John's on September 8, 9 and 10. There may be other events affecting our members. I wonder if the deputy leader could be more precise as to the exact dates of those meetings for those of us who want to attend. Bill C-25 is an important bill, and other members of our caucus who are not members of the committee are interested in this bill and have already spoken to it. They would not want to miss the witnesses. I would like to know the dates the committee intends to sit and, of course, assurance that this does not disrupt the holiday schedule of the staff directly associated with the committee.

Senator Robichaud: As the Honourable Leader of the Opposition knows, this committee is under the chairmanship of Honourable Senator Murray. I hear the comment, "Good chair," and I agree with that. Therefore, I have no doubt that Senator Murray will make sure that all these considerations will be looked at so that members of the opposition can attend the meetings and

can also attend their caucus meeting, and also that staff will not be overburdened with the work that is to be done by the committee. Perhaps the chair of the committee could add his remarks so as to give more information to the Leader of the Opposition.

Hon. Lowell Murray: Honourable senators, needless to say, we saw this bill coming a good long time ago. Speaking for Senator Day and Senator Finnerty and myself, we had hoped that the bill would have been before the Senate long before the date on which it arrived earlier this month.

However, in our consultations, we had agreed that the committee, to do justice to a bill of this kind, would need some nine meetings. We have pretty much agreed to a tentative list of witnesses. I might say that a meeting is of 90-minutes' duration. If this motion were to pass, I would have to consult with members of the steering committee again, but I would try the persuade them and the members of the committee to come back right after Labour Day for the better part of three days to hear most of the witnesses so that we would be in a position to proceed to clause-by-clause study during the week September 16 and perhaps report the bill that very week. Otherwise, given the days that are assigned to the committee when the Senate is sitting, we would require two meetings a week for four weeks, or something of that order, before we could complete our consideration of the bill. If this motion goes through, I will be consulting with a view to having two or three days available to us right after Labour Day in that first week of September.

Senator Lynch-Staunton: That would take us into November, and it is a government bill. Any objections I had to similar motions are weakened. I would hope that the notices of meetings will come out as soon as possible and that we will not have to wait until the eve of Labour Day. I am sure that the chairman and his steering committee will answer that positively.

Hon. Terry Stratton: I have raised this issue before and I must express a concern again. We have been diligent in trying to impress upon various chairs and deputy chairs the importance of meeting outside the regular committee time slots simply because of the problem we have with staffing. Senator Milne and other chairs are aware of this problem.

The committee wishes to sit during a week or a range of days that the Senate is not sitting. Before there is a commitment to sit, I would want assurances that, first, we can staff the committees fully with our regular members, and, second, that we will not sit during the week of our caucus in St. John's, which I think is the week of September 8 through 12.

Senator Murray: It is precisely to avoid sitting during that week that I am suggesting the committee be recalled right after Labour Day, that is, during the first week of September. As for the availability of staff, I cannot give that assurance today, but I will need to have that assurance myself before I recall the committee.

• (1520)

Senator Lynch-Staunton: Honourable senators, if I may, on this question of sitting outside regular sitting hours, I hope the Chair of the Human Rights Committee is listening, although she does not by procedure have to answer. I understand that we did give

her authority to sit every Monday as of September 16 for her special study. I had assumed, and I should have asked her at the time, that she would sit at their regular time slot. Now I understand she intends to call the committee at nine o'clock in the morning. That will penalize our members, particularly from the Atlantic provinces, who cannot get here on that same day so will have to come here on the eve and break up a weekend. That disrupts what little private life that public people have.

I know I am out of order, but since we are on the topic, can some assurance be given that, before settling on the hour of the meeting, full consultation with all members will take place to be sure of full attendance?

The Hon. the Speaker: We probably should have leave to do this, honourable senators. Is leave granted?

Hon. Senators: Agreed.

Hon. Shirley Maheu: Honourable senators, we have agreed, with the consent of the whip, that we can proceed as long as Conservative members are there. The committee cannot sit without opposition members. We can hear witnesses, however, with less than the usual quorum. We have made it a practice not to meet without at least one member of the opposition present.

The only way we can finish the minister's report, with the number of witnesses who want to come before the committee, is to sit for more than two or three hours or one day. One Monday every second week will just not work. That is why I asked special permission.

Senator Lynch-Staunton: Honourable senators, the terms of reference came from the Senate. It is all very well to accommodate a minister, but members of the committee should be accommodated first. You say that one member of the opposition is enough, but I think all members should be there for this very important study. Just to dismiss the opposition by saying one is enough and we do not need a quorum to hear witnesses is dismissing the importance of the committee's work.

Senator Maheu: I agree with the honourable senator but I cannot think of any committee in the house that has refused to hear witnesses if they did not have a full contingent of their members. You get as many members as you can. The members agreed to sit on the Monday because of the importance of the subject and because we have so many people who want to appear as witnesses from right across the country. We are not travelling. It will happen here.

Senator Lynch-Staunton: We simply must make sure that the hour set for your sittings accommodates those senators who come from beyond the Toronto-Montreal-Ottawa area. Flight schedules being what they are now, it would mean, in the case of Senator Robertson and Senator Rossiter, they would have to come the day before and break up weekends, which may not be necessary if you set the time for eleven o'clock or noon.

Senator Maheu: We have members coming from as far as British Columbia, from Winnipeg. Senator Robertson is not on the committee by the way — Senator Rossiter is — but she is

welcome. However, we have members coming from right across the country.

Senator Lynch-Staunton: You are reinforcing my argument.

Senator Maheu: Do you want us to call off our meetings on the Monday?

Hon. Anne C. Cools: Honourable senators, I think that Senator Lynch-Staunton is raising a very basic question and one that we all grapple with. This is a huge country and the travelling distances are quite enormous. We do have a custom among members that if and when we are meeting on Mondays in committee, we make sure that we begin those meetings later, rather than earlier, to accommodate travel. That is the only point, I think, that was being made.

The Hon. the Speaker: Honourable senators, we are doing an inquiry on a settled matter to accommodate questions. We have interrupted Senator Murray's time, which I will deduct from his 15 minutes. The next speaker on the matter which we have interrupted will be Senator Prud'homme.

Senator Bryden, are you rising on the interrupting matter or the matter that we wish to return to?

Hon. John G. Bryden: Your Honour, which is which? I rise on a very small consideration. It relates to the issue of designating a period of time in which a committee may or may not sit. In this instance, it is a period of time from September 1 until September 16. We also have situations, I believe, where committees are asking for time to sit during the summer. If we demand that staff accommodate our committees during the vacation period, they must vary their vacation schedules, and our budgets may be impacted if overtime is necessary. That is why we really require committees that ask leave to sit outside their normal sitting times to specify to us, wherever possible, what days they will be sitting.

It could occur in some situations that a senator or a particular chair is so concerned about moving along with a particular agenda that the particular committee will meet three or four times during the vacation period when we are not normally sitting. That must be totally disruptive to the management of the human resources on whom we depend so very much. I am supporting what Senator Lynch-Staunton has been saying all along. Let us not give committees and chairs a blanket opportunity to choose, say, Tuesday in the third week of July, to have a committee meeting. We need to authorize the times when they will have their sittings where at all possible.

The Hon. the Speaker: We have returned to the motion involving National Finance. I took it that Senator Murray was speaking to the motion so I could hear Senator Lynch-Staunton and others make comments or put questions to you. I have to find a place for people, at least in my own mind.

Are you rising to speak or to put a question, Senator Prud'homme?

Hon. Marcel Prud'homme: Honourable senators, I think the issue is getting so confusing that I will abstain from adding to the confusion.

The Hon. the Speaker: Is the Senate ready for the question?

An Hon. Senator: Which one?

The Hon. the Speaker: There is only one question before us. I take it that the house is ready for the question.

It was moved by the Honourable Senator Robichaud, seconded by the Honourable Senator Rompkey:

That pursuant to rule 95(3) the Standing Senate Committee on National Finance be authorized to meet during the period September 1 to September 16, 2003, even though the Senate may then be adjourned for a period exceeding a week.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: On division?

Some Hon. Senators: On division.

Motion agreed to, on division.

SPECIFIC CLAIMS RESOLUTION BILL

REPORT OF COMMITTEE ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Chalifoux, seconded by the Honourable Senator Adams, for the adoption of the Fourth Report (Revised) of the Standing Senate Committee on Aboriginal Peoples (Bill C-6, to establish the Canadian Centre for the Independent Resolution of First Nations Specific Claims to provide for the filing, negotiation and resolution of specific claims and to make related amendments to other Acts, with amendments) presented in the Senate on June 12, 2003.

Hon. Thelma J. Chalifoux: Honourable senators, I have nothing further to add.

The Hon. the Speaker: Is the house ready for question?

• (1530)

Hon. Senators: Question!

The Hon. the Speaker: It was moved by the Honourable Senator Chalifoux, seconded by the Honourable Senator Adams, that this report be adopted.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

The Hon. the Speaker: Honourable senators, when shall this be read the third time?

[Translation]

Hon. Fernand Robichaud (Deputy Leader of the Government): Later today, honourable senators.

[English]

The Hon. the Speaker: Honourable senators, is leave granted to deal with third reading of Bill C-6 later this day?

Hon. Charlie Watt: Honourable senators, I wanted to speak on Bill C-6 at the report stage. I thought I would have that opportunity as the other side adjourned the matter yesterday.

The Hon. the Speaker: Senator Watt, you can speak at third reading, which will occur later this day. If I am not mistaken, leave was granted, but I should be doubly sure, because the honourable senator rose.

Is leave granted that third reading be given to this bill later this day?

Hon. Senators: Agreed.

The Hon. the Speaker: Then, when it comes up, Senator Watt, you will be able to speak at third reading.

Hon. Anne C. Cools: Honourable senators, I would like to point out that while you were putting the question and the vote a few seconds ago, Senator Watt was on his feet trying to get the floor. It should be noted that he was trying to speak to the committee's report.

The Hon. the Speaker: On your behalf, Senator Watt, Senator Cools has complained.

Senator Watt: I wanted to speak at report stage, so I would have a second opportunity to deal with the matter, but that is okay.

Hon. Terry Stratton: Honourable senators, I must agree with Senator Watt. If he wanted to speak at report stage, and he was standing on his feet, surely to goodness he should be recognized. That will not cause a delay in the proceedings. The question can be put so that he has the opportunity to speak not only once, but twice. That is what he would like to do.

The Hon. the Speaker: Senator Stratton, unfortunately, I did not see Senator Watt on his feet and I did not give him the floor. For us to return to report stage would require the unanimous consent of the Senate. Senator Stratton, I gather that this is a question that you would wish me to put. I will.

Is it agreed, honourable senators, that we return to report stage of this bill so that Senator Watt may speak?

Senator Cools: It is not in order to seek unanimous consent to do this, honourable senators. The situation has moved on by a vote that was conclusive. The report was adopted. One cannot move back by unanimous consent on this kind of procedure.

I was trying to help Senator Watt get His Honour's attention. Honourable senators, with all due respect, and great affection and everything else, frequently in this little corner we are on our feet trying to get the floor to speak before votes are taken.

Hon. Eymard G. Corbin: If I may, there has been either an oversight or a misunderstanding; whatever, it is history. It is important that minorities in this house be given an opportunity to speak on matters that they are gravely concerned about, regardless of the kerfuffle that we may be facing. This is a house charged with the responsibility of defending minority rights. I do not think I need to say anything else. Perhaps, in the exchange, something was lost or there were conversations. However, it is important that people like Senator Watt be given an opportunity to speak.

The Hon. the Speaker: Senator Watt, I will hear from you.

Senator Watt: I do not want to create any further confusion in this matter, honourable senators. The thing that concerns me, why I keep standing up, is that I want to speak at the report stage and at third reading of the bill. Should I choose not to follow normal procedure, I think that I should have that latitude.

Let us take an example. If I wish to introduce a motion to refer this matter to the Standing Senate Committee on Legal and Constitutional Affairs, then I want to have that opportunity. However, I am concerned that I might be prevented from doing that if I do not speak at report stage and speak only at third reading. That is my concern. I hope that is clear.

The Hon. the Speaker: Some honourable senators wish this chamber to be responsive to the desire of a senator, namely Senator Watt, to speak. We are in an unfortunate situation where the presiding officer, me, did not see Senator Watt standing in his place asking for the floor, and I went ahead to put the question at report stage, which we have dealt with and which is passed. We have before us requests by a number of senators: Senator Corbin, Senator Stratton and Senator Cools. Senator Cools expressed a concern about following the rules when I posed the suggestion that, with leave, we go back to report stage. I see my obligation as presiding officer to do what I can to ensure that honourable senators have every opportunity to speak and do what is provided for under the rules.

I appreciate Senator Cools' reservation, but I would be prepared to ask for leave. If leave is given without a dissenting voice, in other words, with unanimous consent, I believe, notwithstanding our rules and the reservations many of us have about this kind of procedure, that we could return to report stage. It means we would be back to report stage; we would have to vote again and so on.

In terms of your concern, Senator Watt, about moving an amendment or referring the matter back to committee, that can be

done at third reading, if that is your concern. Maybe, Senator Watt, you can tell me how badly you want to speak before I put the request for leave again.

Senator Watt: Your Honour, I do appreciate you giving me some latitude here. I wish to speak. This is a serious issue. If I can speak at third reading and have the ability to make the motion at third reading, then I have no problem. I can wait.

Senator Chalifoux: Honourable senators, I wish to apologize to Senator Watt. I was not informed. I thought he was speaking at third reading. That is why I moved the adoption of the report.

I would like to publicly apologize to my colleague, Senator Watt.

The Hon. the Speaker: Honourable senators, I take it from what Senator Watt has said that he is happy to speak at third reading. He will be able to, if he wishes, make a motion to amend, to refer the matter back to committee or do any one of the various options our rules provide for at third reading.

Am I correct, Senator Watt?

Senator Watt: Yes.

CRIMINAL CODE

BILL TO AMEND—MESSAGE FROM COMMONS— REPORT OF COMMITTEE ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Furey, seconded by the Honourable Senator Moore, for the adoption of the Fifth Report of the Standing Senate Committee on Legal and Constitutional Affairs (motion and Message concerning Bill C-10B, An Act to amend the Criminal Code (cruelty to animals)) presented in the Senate on June 12, 2003.

Senator Robichaud: Question!

Hon. Anne C. Cools: Honourable senators, I was listening carefully to see if the question was about to be put. I was just observing the leadership. We are anxious that the events of yesterday not be repeated because we are eager to see this matter voted on.

The Hon. the Speaker: Seeing no senator rising to speak, I will ask the chamber: Do you wish me to put the question?

Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted, on division.

• (1540)

[Translation]

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, we could now give the floor to Senator Watt on Bill C-6, if he so desires, to give him the opportunity he did not have at report stage.

SPECIFIC CLAIMS RESOLUTION BILL

THIRD READING—MOTION IN AMENDMENT— DEBATE ADJOURNED

Hon. Fernand Robichaud (Deputy Leader of the Government) moved:

That Bill C-6, An Act to establish the Canadian Centre for the Independent Resolution of First Nations Specific Claims to provide for the filing, negotiation and resolution of specific claims and to make related amendments to other Acts, be read a third time.

[English]

Hon. Charlie Watt: Honourable senators, we have heard and listened carefully to the people who have made submissions to the Standing Senate Committee on Aboriginal Peoples. I feel it is my duty to confirm that Bill C-6, as amended by our Standing Committee on Aboriginal Peoples, is unworkable. I do not like to say this, but that is the fact.

Bill C-6 is unworkable for the following four reasons.

Number one, to set the financial cap for compensation at \$10 million means that few specific claims will be negotiated or negotiated successfully. We heard from the witnesses that they have great doubts whether the mechanism being put in place will be useful in dealing with a huge backlog of claims. The cap should be left to negotiations. I know, because I signed Canada's first modern treaty. I do feel that I have experience in that area.

Number two is the time limit. No delay is set for the minister's decision to negotiate.

Number three is the scope of the claims. Claimants can only deal with lands and other assets instead of harvesting rights, and other questions.

Number four is consultations. The minister will only consult on nominations to the commission and tribunal. Will consultation take the form of Internet blips for communities where there is no Web connection?

The witnesses have not been listened to, honourable senators. They have been ignored. They have been ignored perhaps because they all said the same thing. What other explanation could there

be? If they all said the same thing maybe the best thing to do is to disregard them altogether. Maybe that was the conclusion arrived at by the committee members.

Honourable senators, again I say that Bill C-6 is unworkable. As a result, I have worked closely with the Federation of Saskatchewan Indians, the FSI, which made an incisive presentation to the standing committee two weeks ago. We share many concerns and we have common solutions. For the record, I will table the FSI presentation, along with my amendments.

We have substantial agreement on the changes to be made to Bill C-6. We agree that a \$10-million financial cap on compensation is not needed, as I described earlier. It should be up for negotiation. Who would want to appear before the commission and go through the tribunal process knowing that there is already a cap? That does not make sense.

We further agree that Bill C-6 as presently worded rewards the federal minister for delay. I suggest that if after three years the minister has not made known the decision to negotiate or not, he or she will be deemed unwilling to talk. The claimant could then refer the issue to the tribunal. That only makes sense, does it not?

We agree, for example, that the phrase "that relates to the provision of lands and other assets" in clause 26 be deleted. Thus, issues of broader concern, such as harvesting rights, could be negotiated outside of the court system.

We agree that the AFN should be actively involved in the nomination process for the dispute resolution centre.

Finally, we agree that there is a need for a genuine non-derogation clause, precisely in the manner described by Senator Austin, but he tends to think that is not needed.

From the Aboriginal point of view, amendments referred to in the committee report on Bill C-6 amount to administrative tinkering. I am not sure they can even be classified as technical amendments.

Representatives of First Nations told us that Bill C-6 should be rejected outright, and if not rejected the bill would require five major changes. That has not taken place. That is why I am tabling five amendments for the consideration of honourable senators. From the Aboriginal point of view, they are real amendments that come from listening to what the Aboriginal people had to say when they were in front of the standing committee.

Honourable senators, we expend a lot of time, energy and money calling witnesses to come to Ottawa to state their concerns. How many more times do we have to go through that and then turn around at the end of the day and have them feel we did not hear one word they said? I do not think we are being fair to the Aboriginal people, nor to the taxpayers in this country.

Honourable senators, I count on your support as we continue our deliberations on Bill C-6, which, I repeat, is unworkable. Canada's First Nations are looking at us today. They are looking to see whether they will have their concerns heard. They have been doing that for quite some time here in Canada. At times, we feel that we are not important, that we are not, in a sense, making a contribution to society. When you first came to this country of ours, we helped you; we ensured you stayed alive. We made sure that you did not starve to death or freeze to death. At times, we disregard that and forget where we originated.

• (1550)

We should not have to apologize to them again. It is our duty to sustain the trust relationship. We take our trust relationship very seriously, but at times we tend to disregard it.

Honourable senators, the reason I am putting this forward in this fashion is that I know that, if I try to move my five amendments, I will be ruled out of order. I am doing this to make them available for consideration, because the amendments made by the committee do not answer the concerns of the Aboriginal people. This is just another example of bureaucracy preventing Aboriginal peoples from moving forward and succeeding. Bill C-6 does not provide for that.

Honourable senators, I ask you to take this matter seriously and to look carefully at the amendments I have provided. I hope that you will realize that they are the only amendments that make sense and that you will replace those put forward by the committee with these that I am tabling.

At this third reading stage, honourable senators, I would ask that all the matters I have talked about be considered carefully, not only from the political perspective but also from the legal perspective. This is very important. Aboriginal rights have been debated since 1982, but Canadians have not yet been able to digest the Constitution and realize that adjustments must be made.

Hopefully, this will become a part of the educational process. All Aboriginal concerns should be referred to the Standing Senate Committee on Legal and Constitutional Affairs and no other.

MOTION IN AMENDMENT

Hon. Charlie Watt: Therefore, honourable senators, I move, seconded by Senator Gill:

That Bill C-6 be not now read the third time but that it be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

The Hon. the Speaker: Honourable senators, before I put that question, is there leave for Senator Watt to table the document to which he referred?

Hon. Senators: Agreed.

Hon. Anne C. Cools: Honourable senators, I must say that the issues contained in Bill C-6 have not preoccupied my mind very much. I believe I understood Senator Watt to say, essentially, that

the study of these matters should be conducted by the Standing Senate Committee on Legal and Constitutional Affairs rather than by the Standing Senate Committee on Aboriginal Peoples. Could he explain that?

Senator Watt: Honourable senators, some of you probably remember the day I first entered this chamber. Not many weeks after, I raised an issue, and some of you may remember it. I questioned why Aboriginal issues were dealt with solely by the Social Affairs Committee. I said that Aboriginal issues should be dealt with in a committee set up to deal with Aboriginal concerns.

At that time, I believe that the Conservatives had a slight majority in this place, and I was ruled out of order on a technicality. A couple of years later, they said it was a mistake and that the motion should have gone ahead. Nevertheless, that did not happen until Len Marchand became a senator. He was instrumental in establishing the Aboriginal Committee where we could have direct dialogue with no barriers. I supported Senator Marchand on that and the committee was established.

The majority of issues relating to Aboriginal people with which the Senate deals are legal issues. I am not saying that the Aboriginal Committee is not doing its job, but it does not have legal expertise.

Hon. Thelma J. Chalifoux: I resent that very much.

Senator Watt: I am sorry that the Chairman of the Standing Senate Committee on Aboriginal Peoples resents that comment, but the fact is that there is no legal expertise on that committee. The legal expertise is loaded in the Standing Senate Committee on Legal and Constitutional Affairs. Therefore, it makes sense to deal with certain Aboriginal issues in that committee. A lot of unfinished business remains to be dealt with, and it must be sorted out legally. If we do not do that, we will mess up the whole issue of Aboriginal rights under the Constitution.

Senator Cools: Honourable senators, two issues come to light here. One relates to the substantive content of Senator Watt's amendment, which is to refer the bill back to committee, not to the committee that studied it and reported on it, but rather to the Standing Senate Committee on Legal and Constitutional Affairs. I am not adopting a position on that.

The second issue captured my attention, and it is Senator Watt's proposition that perhaps the time has come for the Senate to reconsider whether Aboriginal affairs per se belong to the Aboriginal Affairs Committee or whether they belong to all the other Senate committees in total. I do not know the answer to that, but to the extent that it has been raised, this question should be dealt with at some time. I would have preferred to see it dealt with under the rubric of discussions on the function of committees rather than under a motion to recommit the bill to committee. I was here when senators worked to constitute the Standing Senate Committee on Aboriginal Peoples. As a matter of fact, at the time, the agreement was that the committee would only meet Mondays and Fridays so as not to compete for other meeting times or space on Tuesdays, Wednesdays and Thursdays. All of that fell to the wayside and is not relevant now.

• (1600)

What has been put before this chamber is whether or not bills such as Bill C-6 should rightfully be referred to the Standing Senate Committee on Aboriginal Peoples or to the Standing Senate Committee on Legal and Constitutional Affairs and other committees. That is what I was asking my questions about.

Senator Watt has posed a question that cannot be resolved today. In fact, we should not be trying to resolve it. To the extent that it has been posed, it should be dealt with at some point in time. I remember that when the Committee on Aboriginal Peoples was under consideration to become a standing committee, those people who were busy proposing it had a lot of concern about the ghettoization of Aboriginals and Aboriginal issues. That was what alerted me and got me into the dialogue. I prefer to stay on that narrow point.

Senator Chalifoux: Honourable senators, I resent the insinuation that I am not a capable chairman. That is exactly what they have been saying. I was involved in Aboriginal affairs when Charlie Watt was a teenager. I know exactly what I am doing. I have chaired many meetings and many committees. We have done our best. We had legal advice.

Honourable senators, at this time, I would like to adjourn the debate in my name.

The Hon. the Speaker: There are other senators, Senator Chalifoux, who have indicated their desire to speak, namely, Senator Andreychuk. Our custom is to hear them before I see a senator to adjourn. I understand you want to adjourn the debate.

Senator Chalifoux: Yes.

The Hon. the Speaker: What I propose to do is follow our practice and go to the senators who wish to speak before going to you for an adjournment motion.

POINT OF ORDER

Hon. George Baker: Honourable senators, I rise on a point of order.

I have not spoken to Senator Watt or to anyone else concerning his motion. Therefore, I do not know the logistics of what is happening or what the intent is of what is happening or what has supposedly happened.

Honourable senators, there is an expression in procedure to the effect that when a bill gets to third reading, a motion can be made that the bill be not now read a third time but that the subject matter of the bill be referred to committee. This is standard wording that one finds in Beauchesne, Erskine May or any of the other procedural books.

I rather suspect, and perhaps Senator Watt can clarify this for me, that his intent was that the bill be not now read a third

time — in other words, that the bill not be passed now — that it remain at third reading stage but that certain subjects that he wishes discussed further be referred to some standing committee for further study in the fall.

Hon. Terry Stratton: We understood that.

The Hon. the Speaker: If no other honourable senator wishes to speak on this point of procedure about the appropriateness of Senator Watt's motion, I think the motion is in order. I will explain why.

I wish to draw to the attention of honourable senators paragraph 737 of Beauchesne's sixth edition, which states:

A bill may be recommitted to a Committee of the Whole or to a committee by a Member moving an amendment to the third reading motion.

That is what Senator Watt is doing. He is moving an amendment to the motion for third reading. He says, no, send it back to committee. I believe that is in order.

Senator Baker: I was not concerned about that. I was concerned about straightening up exactly what Senator Watt was saying and what he intended to say, which was not a reflection on the Standing Senate Committee on Aboriginal Peoples.

Hon. Thelma J. Chalifoux: It certainly was.

Senator Baker: That was not his intent.

Senator Chalifoux: Yes, it was.

Senator Baker: The only point I wished to make is that it was a procedural thing that Senator Watt wanted to do. He wants to leave the bill for the fall.

The Hon. the Speaker: What Senator Watt did is in order. We need not spend additional time on whether or not it is in order.

There are at least two senators who wish to speak.

Senator Cools, if you wish to speak, I would point out that I have a list of senators in the order in which I saw them. They are Senators Andreychuk and Joyal. If you wish to speak, I will see you in that order.

If you have another point of order, Senator Cools, I will hear you now.

Hon. Anne C. Cools: I wish to speak on the point of order raised by Senator Baker.

The Hon. the Speaker: I have disposed of that matter by indicating that Senator Watt's motion is in order.

[Senator Cools]

Senator Cools: Honourable senators, no one suggested that it was not in order. His Honour's ruling was anticipating a question that was not asked. The real issue here is not whether a bill can be recommitted. The real question is for Senator Watt to explain in a fulsome way why he was choosing another committee to recommit the bill to. In the process, to be crystal clear, Senator Watt was in no way reflecting either on the Aboriginal Peoples Committee or the senators on the committee.

The Hon. the Speaker: I hear you, Senator Cools. What we have here is not a matter of whether or not we are in breach of our rules. What you are talking about is something that is quite properly brought forward in debate. I will see senators in this order: Senators Andreychuk, Joyal and Cools. After that, if no other senator wishes to speak, I will go to Senator Chalifoux for an adjournment motion.

Hon. A. Raynell Andreychuk: Honourable senators, I wish to speak to the motion. I regret that there is obviously some misunderstanding and some characterizations that pain me more than anything else.

Some 30 years ago, I learned the lesson that the one thing we should not do with our fiduciary duties is to divide the Aboriginal community. I would not want that to happen on the floor of the Senate chamber.

In my conversations with Senator Watt about my concerns involving Bill C-6, it has been brought to my attention that there are many issues here. I believe the Aboriginal Peoples Committee dealt with the matter as efficiently as it could in the time allocated to it. I make no comment that could be perceived as impugning the Aboriginal community.

However, our Legal and Constitutional Affairs Committee has in its terms of reference a unique responsibility to look at the Constitution and the legalities of those issues. Many of the issues concerning the technical compliance of the bill and its ability to be introduced and implemented can be studied by the Department of Justice or the Department of Indian Affairs. However, we have often asked the Standing Senate Committee on Legal and Constitutional Affairs to look at issues that are unique to the constitutionality of a bill. It sometimes arises that both committees seize jurisdiction. Sometimes one committee asks another committee to look at a particular issue. Sometimes there are two requests from the floor.

• (1610)

I hope that we take Senator Watt's motion in the spirit in which it was intended, which is to look at the constitutionality of the issues and not at the Aboriginal content. Aboriginal groups have stated their position to the Standing Senate Committee on Aboriginal Peoples. They were given that opportunity. However, the legalities canvassed there may or may not have had the kind of light and scrutiny that the years of expertise of the Legal and Constitutional Affairs Committee could give them.

There are ongoing, difficult issues, and there is case law that impacts on Bill C-6. In fairness, it would be to everyone's benefit

if another committee considered this issue to be sure that we have done the best job we can. If it is not the will of this chamber to do so, we can at least, in all honesty, state that.

We cannot impugn motives when a senator wants another committee to study a matter. I have been and will be very candid. In this chamber, Senator Watt sometimes expresses himself using words for which I have one meaning and he has another. We have discussed that, and we have come to the conclusion that what I was taking out of what he said was not what he intended. English and French are not always the language of everyone in this chamber.

I think Senator Watt's motion was meant in the spirit that it was intended, that is, that the matter should be looked from a Constitutional perspective, and I for one would urge this chamber to adopt the motion in that light.

Senator Cools: Honourable senators, I was not so much concerned about the substance of the motion itself as I was concerned with the phenomenon. A bill has come to us. We adopted a report from a particular committee. It was then moved that the bill be recommitted to another committee.

I was very interested in Senator Watt's reasons for suggesting that. We know that Senator Watt is deeply concerned about these questions.

It is in order, as Senator Andreychuk has suggested, that the Senate ask one committee to do something and, having taken that report, then turn around and ask another committee to take another look at the issue. As far as I am concerned, it is a perfectly legitimate and healthy process, and perhaps one that should be employed more from time to time.

Just a few weeks ago, Senator Carstairs introduced her motion to refer the question of the study of non-derogation clauses. When Senator Carstairs asked a Senate committee to be authorized to examine and report on the implications of including in legislation non-derogation clauses relating to existing Aboriginal and treaty rights of the Aboriginal peoples of Canada under section 35 of the Constitution Act, 1982, I was most interested that Senator Carstairs chose to include in that motion a reference to the Standing Senate Committee on Legal and Constitutional Affairs and not the Aboriginal Affairs Committee.

There is merit in what Senator Watt has said. As I said before, the recommitment of this bill is a different question from the relationship between the Aboriginal Peoples Committee and the Legal and Constitutional Affairs Committee in general. I was trying to separate the two questions.

To that extent, if Senator Watt is of the opinion that the study of this bill should be continued, and if he is of the opinion that the committee to continue that study should be the Standing Senate Committee on Legal and Constitutional Affairs, I am happy to support him in that initiative.

Hon. Eymard G. Corbin: Honourable senators, I recognize that I get up too often to voice my opinion, and I apologize for that. Clause 76 of this bill reads as follows:

76(1) Not earlier than three years and not later than five years after the coming into force of this section, the Minister shall undertake and complete a review of the mandate and structure of the Centre, of its efficiency and effectiveness of operation and of any other matters related to this Act that the Minister considers appropriate.

(2) On completion of the review, the Minister shall cause to be prepared and sign a report that sets out a statement of any changes to this Act, including any changes to the functions, powers or duties of the Centre or either of its divisions, that the Minister recommends.

(3) The Minister shall submit to each House of Parliament a copy of the report on any of the first 90 days on which that House is sitting after the Minister signs the report, and each House shall refer the report to the appropriate committee of that House.

Honourable senators, why wait three years, five years or 90 days to correct something that is not working? Let us do it now, and let us do it properly. Let us support Senator Watt's motion.

[Translation]

Hon. Maria Chaput: Honourable senators, it is essential that I speak on this issue in support of Senator Chalifoux, Chair of the Standing Committee on Aboriginal Peoples.

This Chair is well versed in this issue, believes in the rights of Aboriginal peoples and promotes their cause wisely and carefully.

As a member of the committee, and as a result of hearing many witnesses, I, too, wanted to give Aboriginals much more than is currently the case. I know that Bill C-6 as amended does not give them what they want, far from it. However, in my opinion and in all conscience, it is a good albeit imperfect first step.

I would like to add that, last week at the airport, quite by coincidence, I bumped into some witnesses who had appeared before our committee, one of whom had said, "Scrap it, it's no good." They came up to me at the airport and thanked me. They told me that the bill was not everything they had hoped for, far from it, but that it was a start and that they were open and prepared to continue to work with us.

Honourable senators, I felt it was my duty to share that with you.

On motion of Senator Chalifoux, debate adjourned.

CANADA ELECTIONS ACT INCOME TAX ACT

BILL TO AMEND—THIRD READING—POINT OF ORDER—DEBATE SUSPENDED

On the Order:

Third reading of Bill C-24, An Act to amend the Canada Elections Act and the Income Tax Act (political financing).

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I move third reading of the bill.

[English]

POINT OF ORDER

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): I rise on a point of order.

Honourable senators, earlier today we received the seventh report of the Standing Senate Committee on Legal and Constitutional Affairs that was examining this Bill C-24. It said that the bill was being reported without amendment but attached to the report there are some notations relating to what are described as clerical corrections.

Honourable senators, this matter relates to a large number of textual differences between the French and the English versions in the various clauses of Bill C-24. At the committee meeting this morning, we heard expert witnesses confirm that, indeed, in their words, "There are a number of errors in the bill." We have the direct testimony from the witnesses that there are errors, and we have this reference to what is described as clerical corrections in the parchment in the seventh report that is before us.

• (1620)

The point of order on which I wish to speak must be set in context. The government itself recognizes that it is Parliament, not law clerks of each house, that must make corrections to bills. Every couple of years, we study omnibus bills that correct statutes previously enacted. Indeed, the other House has before it Bill C-41, to enact the Amendments and Corrections Act 2003. Of the 32 clauses in this bill, five specifically correct the French version of the statutes only.

Why do we not give, one asks, due deference to the French language when a bill is going through the legislative process? Honourable senators, in Bill C-24 that is now before this house, we have a large number of clauses in English that refer to subparagraphs with one number and, in French, subparagraphs with another number.

I ask whether this is simply "a clerical error." How do legislators know in reading the bill which subparagraph represents the real intent of the government drafters? Was it the French or the English version? This bill contains references in French to clauses that do not even exist. Clause 25, which replaces section 405 of the act, refers to the proposed subsection 405.3(2.1) in the French version, refers to subparagraph (1). That simply does not exist in the bill. How, I ask, could this possibly be considered a parchment error or a clerical error?

Honourable senators, the irony of all this is that several of these errors arose from the Commons committee and the Commons committee's attempt to fix other problems in the bill. Indeed, the first of these errors arose in government amendment G-12 which, among other things, was correcting an English drafting error. Yet

others arose in government amendment G-14. These amendments themselves were flawed and were passed at committee stage in the other place, agreed to at report stage in the other place, and passed at third reading in the other place. It was only when the bill came to the Senate that these errors were noticed.

Honourable senators, this house has, indeed, in the past often amended bills to ensure that the French version agrees with the English version. This has been done, honourable senators, by amendment, not by staff working behind closed doors to clean up drafting errors that originated in the other place or at the Department of Justice.

Honourable senators, in 1975, the Senate amended Bill C-16, the status of women amendment bill, to ensure the French version agreed with the English. The bill had not gone to committee, so the amendment was moved at third reading. Indeed, Senator Denis stated:

Honourable senators, the purpose of this amendment is to make the French version agree with the English version.

The government meant to propose this amendment in committee, but since you have been kind enough not to refer this bill to a committee, I move the amendment. It is simply a matter of having the French version agree with the English one.

Honourable senators, that is but one example of such an amendment in this chamber, but what do the procedural authorities say on the matter? *Beauchesne's Parliamentary Rules & Forms*, fifth edition, states at page 223, and this is reconfirmed in the sixth edition at page 198, at citation 657:

When a variance occurs in either the English or French texts of a bill, it may be treated, with unanimous consent, as an editorial change.

Last night in committee, the experts who appeared told us that, in their opinion, there are a variety of methods available to correct the errors that are discovered. One of the methods is amendment. Other methods are used if it is a simple error. I think the example given was, if "the" is spelled in English "teh" rather than "the," that would constitute, in the opinion of that witness last evening, a clerical error or an error that could be agreed to by the clerks of the two places.

I suggest that even an error of that nature cannot be corrected unless there is unanimous consent of a house to do so. What right does a clerk have to be making amendments to bills that are being studied by a legislative chamber? Why have a legislative chamber if clerks can fix clerical errors or other errors? Who is to decide what constitutes a clerical error or a substantive error or an error that, in the minds of some legislators, is not clear because of the language in which the article or the section is expressed?

I repeat this very important citation from Beauchesne's:

When a variance occurs in either the English or French texts of a bill, it may be treated, with unanimous consent, as an editorial change.

I emphasize "may."

The next citation is on that same page in Beauchesne's, and it reads as follows:

658. The Speaker should not be expected to interpret the language of a measure when one text appears to be at variance with the text in the other official language.

Speaker Lamoureux, in his ruling on March 25, 1976, on the editorial correction noted:

A figure in the text was changed during the course of the committee proceedings. That should be noted. It has been treated as an editorial change. In any event, it is appropriate that it be brought to the attention of the House so that it can be properly noted as having taken place.

In 1970, Speaker Lamoureux also ruled that the Speaker should not be expected to interpret the language of a measure when one text appears to be at variance with or different from the text of the other official language. He stated:

The difficulty is compounded in this sense that if it were found that there is a real difference between the two texts it would be difficult for the Chair to rule on which of the two reflects the intention of those who have drafted the bill.

Speaker Lamoureux's solution was that an amendment should be put at the committee stage. Perhaps the following citations from the twenty-second edition of *Erskine May Parliamentary Practice* should be considered. At page 540 it provides:

Notice may be taken at the consideration stage of any irregularities which have occurred in committee which have not been noticed or corrected in that committee. In such cases the bill is usually recommitted.

• (1630)

It would seem, honourable senators, that we can correct the bill by sending it back to committee to make corrective amendments. We have noticed that there are flaws in the bill. Indeed, the seventh report tells us that there are flaws in the bill. The bill, therefore, should not be altered by motions in this house.

Honourable senators, we have a bill before us in which there are variances between the French and the English text, where the English text is much clearer in reference to the application of subparagraphs. We have a bill that refers to subparagraphs that no longer exist.

This morning, the law clerk pointed out that his office simply does not have the resources to review every bill that comes before us for clerical errors. Indeed, it should not be his job to ensure that the English text corresponds with the French text or that references to the original law are correct. The bills we receive should not be filed with clerical errors. If they are, they should be sent back to the House of Commons. This is supported by the *Erskine May* citations I spoke about earlier.

In conclusion, honourable senators, I believe it is our duty as legislators to amend Bill C-24, to correct the variances between the English and French versions. We need to send a strong message to the House of Commons that bills should arrive in this place in the correct format, with the English and the French versions in agreement.

The Senate should not be party to correcting bills in the back room. Corrections should be done in committee or on the floor of this house.

Honourable senators, this is a house of review, a house that reads bills. This is a house that has found numerous errors, errors that proceeded continually through the process in the other place, which speaks volumes to the value of a bicameral system. That bicameral system is not worth very much if we do not take our duty seriously.

Here is an instance where the government is rushing to push a bill through. The government is not interested in doing anything. Some commentators who have spoken to the content of the bill see it as nothing but a government party grab for money, which will provide millions of dollars to a separatist party that wants to break up the country.

I do not want to go into the content of the bill. I have examined it in the few hours that were available to us in committee. We have apprehended errors. The transcript of the Standing Senate Committee on Legal and Constitutional Affairs is evidence. When our expert witness says, "Yes, there are errors," there are ways in which errors can be corrected. Judgments must be made as to whether the errors are of a purely clerical nature or whether some of the areas speak to confusion or opportunity, as some lawyers might argue.

Honourable senators, this bill on electoral financing is about the thousands of Canadian volunteers who work for all of the political parties in Canada. I remember the lesson that Senator Corbin has taught, that our Westminster system is based on political parties; political parties are a good thing, but our political parties are really run in Canada by the hundreds of thousands of volunteers who work for the respective parties.

There is a sanction in the bill. Senator Baker explicated a problem with the sanction. A sanction will be imposed on our political workers, who are the volunteers, if they make errors, if they do not comply. There is no colour of right attached to this bill.

Honourable senators, it is our duty to ensure that what is in the bill is what we intend to be there. We cannot allow the confusion, variances and errors that are there. We can only correct the bill by amendment.

My point of order is that what is in this seventh report suggests that this can be done by the clerks, which would require unanimous consent.

Hon. George J. Furey: Honourable senators, with the greatest of respect to Senator Kinsella, the Law Clerk of the Senate was called before your committee. He informed the committee that the

irregularities referred to by Senator Kinsella were clerical errors. He also informed your committee that these irregularities could be corrected by the law clerk with the consent of the Commons law clerk if directed to do so by your committee.

Honourable senators, your committee followed the advice of the experts that we called before us. The procedure can be done this way, and we are asking for your support to have it done this way.

[Translation]

Hon. Gérald-A. Beaudoin: Honourable senators, I would like to say a few words about the point of order raised by Senator Kinsella.

It is true — and we discussed this in committee this morning — that there are two ways to correct the situation: one is to give instructions to the House's legal counsel and ask him to correct the situation, and the other is to proceed by amendment. However, after having heard the experts who testified before us, I think we would do best to use the amending approach for one simple reason: before 1982, in the days of Messrs. Pearson, Trudeau and Mulroney, people did not talk about the equality of official languages in Canada, just about official languages. It was only in 1982 that section 16 of the Canadian Charter of Rights and Freedoms set out that both official languages in this country should be equal.

When an error is found in different parts of a legal text, it matters little if it is in the French or the English version. What matters is that both versions are equal.

The best way to proceed would be with a constitutional amendment. It is not enough to give parliamentary counsel the power to correct an error in a law that, under our system, must respect the equality of French and English. There must be an amendment. This must be done legislatively, rather than administratively.

Canada's official languages must be taken seriously. This is not something that is simply contained in a law, it is at the very heart of our Constitution. I believe we must proceed by amendment.

I know that the two legal counsel told us that we could take one approach, or the other. I am saying that we should take the other, a legislative amendment, rather than a correction that is purely administrative.

• (1640)

Hon. Gerald J. Comeau: Honourable senators, I would like to take part in this discussion on Senator Kinsella's point of order. As a francophone, I am concerned with how this type of error is frequently minimized. These are rather serious errors. The argument is that, this being the French version, the clerk can fix it, and we will just forget it all.

However, francophones should consider these errors a bit more seriously. Errors that occur in the French text are fixed by the clerks and those that occur in the English text, by legislative means.

As Senator Beaudoin has said, we have equality between the two languages. We are not talking about two official languages, but rather about language equality. We want to send to Canada's francophones the message that we do not consider French a secondary language. We must acknowledge that Parliament operates in both official languages and that both official languages are taken seriously. If that is not the case, how can government officials and Canadians evaluate the seriousness of these questions?

On June 24, we will be celebrating Saint-Jean-Baptiste Day, the national day of French Canadians. We want to send a message that the parliamentarians of the highest authority in Canada, the Parliament of Canada, take the two official languages seriously and treat them equally.

It is our duty as parliamentarians to correct these errors by legislative means. It is not something for the clerks to do in secret. These errors will be perpetuated for as long as the other place has not been made aware of the fact that both official languages will be treated equally in the Senate.

The official opposition in the House of Commons does not take the matter of two official languages seriously. They have resources for finding this kind of error, but do not take the matter seriously. They tell themselves that the bill will go to the Senate and that the clerks will sort it out there. This attitude must be done away with. As long as we have an official opposition in the House of Commons that does not want to take its job seriously, we will return the badly drafted bills to them. For these reasons, let us not take administrative means to correct them, but rather legislative means, so that the message is clear.

[English]

Hon. Anne C. Cools: Honourable senators, I would like to take issue with what Senator Kinsella has said, not on the substantive matters that he was speaking about in respect of the bill but on the particular issues on which he is raising a point of order, that is, the content of the report in respect of the committee authorizing our law clerk and parliamentary counsel to make clerical corrections.

Perhaps honourable senators could get a hint of the corrections that we are speaking of by looking at Bill C-24, in particular, page 34 at the very top. In that way, they would be well-seized of what we are talking about and understand that absolutely nothing improper is going on here.

Clause 25 is an amendment to section 405.3 of the Canada Elections Act. However, this is the sort of problem senators encountered in their diligence and in their care. Paragraph (2.3) states:

Despite subparagraph (2)(b)(i), if an association...

The clause continues. The problem is that the French translation reads:

[Translation]

Par dérogation à l'alinéa (1)a)[...]

[English]

The two numbers are different. Clearly, the sense of everything else is the same. The intent is the same and the words in French are the same, so what we are speaking about, be it from carelessness or whatever the cause, is definitely a clerical error.

Honourable senators, I would like to opine that these things happen occasionally. This matter is definitely in the nature of a misprint, a typographical error, a printing error, so to speak, and is not in the nature of anything substantive.

The real question to look at, honourable senators, when trying to make such a decision is the intent and the underlying motivation. There is absolutely no intent to deceive nor mislead, or to alter the text. What we are dealing with here is a straightforward clerical error caused by a typist or a person moving this bill on to a printed copy. I would submit and I strongly suspect that that is where the clerical problems happened. We are not dealing with anything substantive. There is not an alteration here.

I would continue in this vein by suggesting that the possibility exists that Senator Kinsella is trying to question the conclusions of the committee after the committee has duly voted to adopt the report. Perhaps it is okay to do that, but I will try to show why his premises are flawed.

He cited for us Beauchesne's sixth edition, paragraph 657, which is found under the subheading "Differences in Text." Paragraph 657 states:

When a variance occurs in either the English or French texts of a bill, it may be treated, with unanimous consent, as an editorial change.

I submit to honourable senators, and to His Honour in particular, that the paragraph Senator Kinsella has cited has no application whatsoever in the Senate. It may be a procedure the House of Commons uses, but we have no such procedure. In the Senate, unanimous consent is something that we use not as an enabling procedure or a positive way of moving or passing initiatives, but in a negative way from the point of view of suspending rules temporarily.

Unanimous consent, as we know it in this Senate chamber, does not have the meaning that it has in paragraph 657 of Beauchesne. We must be clear on that point. Rule 3 of the *Rules of the Senate*, where we see the sidebar "Suspension of rule," speaks to how we use unanimous consent in this chamber.

I submit that paragraph 657 has no application in this chamber. Honourable senators, that is not unusual. Much of *Beauchesne's Parliamentary Rules & Forms* has no application in the Senate because it remains primarily a House of Commons reference book. It would be wonderful if one day we could have a reference book for the Senate that could be used in this chamber. The Australians have one.

• (1650)

The second paragraph Senator Kinsella quoted was 658. I submit that the same thing applies, that paragraph 658 has no application in this chamber because it flows from paragraph 657. As paragraph 657, with that particular interpretation of "unanimous consent," it has no application here.

Finally, honourable senators, Senator Kinsella is quarrelling with the following words in the committee report:

Your committee notes that it instructed the Law Clerk and Parliamentary Counsel to make the following clerical corrections in the parchment, in clause 25, of the French version:

It then lists them.

Honourable senators, we talk about experts and about authorities. I would not have articulated the issues in the way my colleague did by referring to taking advice from the experts. In my view, we are supposed to be the experts and the real parliamentary authorities. We are the members of Parliament.

I would like to remind honourable senators — and this may come as a shock — that the term "law clerk," as the term "clerk of the Senate," has a historical meaning and a historical significance. Contrary to the grand positions that they hold and the nice and wonderful people they are, they do perform clerical tasks. Those jobs are clerical tasks, believe it or not. The Senate committee asked the Senate's own law clerk to perform a clerical task and to make some clerical corrections that the committee seemed to believe are printing errors, typographical errors, non-substantive errors.

I come, finally, to Senator Kinsella's point about an amendment versus a clerical correction. Perhaps one could argue that the committee could have proceeded by moving an amendment, and Senator Kinsella and others argue that. However, I submit that an amendment is something deeper, more profound and larger than a clerical correction. I submit that an amendment is a substantive act. It is not the making of a correction of a typographical mistake, it is making a correction on a policy question or a substantive issue. In other words, an amendment is a new, a different or an additional proposition and, honourable senators, I submit that what the committee did in making those corrections is neither new, different nor additional propositions. As a matter of fact, I submit that they were not propositions at all, that the committee, in its wisdom, its diligence and its attentiveness, discovered these errors that had gone unnoticed in the bill passed by the House. These particular errors were clearly identified as clerical, and the committee consulted and instructed the law clerk.

To be frank, the law clerk is not only the law clerk of the Senate. Honourable senators do not realize that our clerk here is not only the clerk of the Senate, but also the Clerk of the Parliaments. Our people are of a higher order than those in the House of Commons. However, that is neither here nor there.

We asked our law clerk to perform a clerical function, a clerical duty, and to make some clerical corrections to the text and, as far as I am concerned, it is quite in order, honourable senators.

Hon. Donald H. Oliver: Honourable senators, I rise to support Senator Kinsella's point of order on one ground. When Senator Furey rose to give the position of the committee, he indicated that, if there were some errors which required small changes to be made to this bill, it was agreed that the Senate law clerk could meet with the law clerk of the House of Commons and together they could make whatever changes, alterations and variations they felt, in their judgment and wisdom, the bill would need.

It seems to me that this is a very serious matter and would set a very bad precedent for the Senate, which is now seized of a certain bill. For the Senate to agree that the law clerk of another chamber could work with the law clerk of this chamber to make substantive changes, alterations, variations or corrections to a bill without the Senate subsequently having an opportunity to vet those changes, would set a very bad, sad and dangerous precedent for this chamber. If any changes are to be made, they should be made here and now with the express consent of the Senate before this bill is read a third time and is given Royal Assent.

I do not think that, when this chamber is seized of a bill, the law clerk of the other chamber should have an opportunity to make those changes, variations and alterations. Therefore, I support the motion.

[Translation]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I agree that there are some differences between the English and French versions. Several years ago now, it was agreed that bills would be drafted in both official languages, by an English and a French drafter, rather than being drafted in only one language and then being translated.

Mistakes have slipped through, but this is not the first time. We asked legal counsel what the procedure was when mistakes are pointed out to the Senate Standing Committee on Legal and Constitutional Affairs, which met yesterday afternoon. According to our legal counsel, who appeared before the committee to answer this question, minor errors can be corrected if the committee so directs. The counsel was not able to give his opinion on the matter on the spot, so the committee decided to adjourn until this morning in order to give him and his assistant time to look at the differences in both versions and decide whether they were major or minor.

This morning he spoke to us about the differences between the two versions of the bill. He told us what changes needed to be made to each of them. He also consulted with the legal counsel of the House of Commons, who consented to having corrections made by directive. He also informed us that we could proceed by amendment. Since the corrections are the type that can be made by directive, that is the procedure the committee chose to follow.

• (1700)

Honourable senators, if a bill contains a minor error, we cannot propose amendments every time and send it back to the other place. That would be an extremely lengthy process. That is why we have this procedure for cases involving minor errors.

Honourable senators, I do not think a point of order is warranted, with regard to the committee's report, which is under consideration.

[English]

The Hon. the Speaker: I am interested in hearing comments or advice on the point of order.

Hon. Eymard G. Corbin: Honourable senators, a number of my colleagues have come to me. They want to know by whom, where and when those errors were made. I do not think I have been told this today. I think it makes all the difference in the world.

The Hon. the Speaker: I will now recognize Senator Furey.

Senator Furey: Honourable senators, I was asking for the floor for a completely different reason.

Briefly, I want to correct an impression left by my colleague and friend Senator Oliver. At no time did I say that substantive changes could be made to this bill. I never uttered those words, nor did I suggest for a moment that we give the bill to two clerks and tell them to go on a changing foray of their own. I never suggested that.

I suggested that the changes they were directed to make were to correct what were considered to be clerical errors. It is a legitimate procedure which can be followed and which the committee is asking the support of the chamber to follow. It is a legitimate procedure that even Senator Beaudoin conceded could be used, and we are asking that it be used.

Where did the errors occur? There was some suggestion that some of them occurred when changes were made in the Commons committee. Obviously, some of them came from drafting. We have no exact idea. I cannot — and perhaps Senator Robichaud can — pinpoint exactly where all errors came from. I have only a general idea of where they came from.

Hon. Serge Joyal: Honourable senators, perhaps I can make a contribution to this important point of order.

Senator Corbin has raised a valid question. He asked: How did these errors happen? They were printed in the bill that we received from the House of Commons. Thus, they came from the House of Commons. The errors that are identified in the report of the Chairman of the Standing Senate Committee on Legal and

Constitutional Affairs, Senator Furey, are errors that were transferred in the bill. As to how that happened in the other place, that question was asked at the committee this morning by Senator Kinsella, following a point made by Senator Andreychuk last night. Our legal adviser, Mr. Audcent, answered clearly that he could not trace back the origin of those errors. He did not have the time to do it.

Senator Corbin: Did they come from the Department of Justice?

Senator Joyal: The bill comes from the other place. Of course, the bill was drafted by a drafter in the Department of Justice. It was tabled in the House of Commons. As I understand the procedure in the other place, the bill was referred to a standing committee, which studied the bill. Many amendments were made to the bill, as we were told by the Government House Leader in the other place. It is possible that some of the errors occurred in the course of making those amendments to the bill.

That being said, I want to come back to the point of order raised by Senator Kinsella and to which the Deputy Leader of the Government has spoken. I think it is very valid for all honourable senators to understand the options that are offered to us when there are such clerical errors in a bill.

This morning, the question was clearly put by Senator Kinsella to Mr. Audcent. With the authorization of our colleagues and His Honour, I would like to quote the transcript from the meeting of the Standing Senate Committee on Legal and Constitutional Affairs of this morning.

I refer to page 1010-4 which states:

Senator Kinsella: Thank you for that, Mr. Audcent.

You advised us this morning that in your analysis of some of these provisions that they can be corrected clerically. Last evening, you advised us that when faced with these kinds of problems there are various solutions available to the House.

One option is to correct things clerically. There are other ways to proceed. I cannot remember the second way, but the third way was by amendment. Could you remind me of the second way?

Mr. Audcent: You could do nothing in which case the law clerks would do the clerical ones.

I repeat:

You could do nothing in which case the law clerks would do the clerical ones. As you have looked at it now, I am not sure that should happen, but that could be one solution.

That is the first option. The law clerks do the corrections.

Mr. Audcent continued:

The second solution is this committee could adopt an order instructing me to do the corrections for the corrections that the Law Clerk of the House of Commons has already agreed. Of course, it is already out of his House. You know that that can be done so you could put it in your report that you have instructed me to make the required corrections.

That is the second option. It is the option that the committee in its report earlier on this afternoon is recommending to us.

Finally, the third possibility is that we could move an amendment, which is of course the point raised by the Honourable Senator Kinsella.

Honourable senators, that is the way in which we were advised this morning by the Law Clerk of the Senate. It is the second option that has been put in our report this afternoon. Of course, that is the object of the point of order that the Honourable Senator Kinsella has made to us.

The Hon. the Speaker: I would like to go to Senator Kinsella at the end of the debate. I will now hear from Senator Baker.

Hon. George Baker: Honourable senators, Senator Corbin's question is key. He asked why, in recent years, we are seeing so many errors in legislation coming from the House of Commons. Of course, that is being dealt with on a daily basis in our courtrooms.

Less than a year ago in the province of Saskatchewan Provincial Court Judge Halderman examined this question: Why are there so many simple errors coming out of the House of Commons?

He said at paragraph 6 of *Re: Criminal Code s. 487.3, Application of General Warrant*, which involved the sealing of documents pertaining to a warrant:

The bill (C-39) was introduced and passed into law in a very few days... There was no reference to nor debate concerning s. 487.3 at any stage of the parliamentary proceedings.

He went on to say that:

...there was no reference by any Minister or M.P. to the provisions of s. 487.3

In the result, it appears that Parliament enacted 487.3 as drafted by the Department of Justice, without debate.

There was no examination or concern for "ambiguity of meaning."

• (1710)

A more recent decision of the Supreme Court of Canada relates to fisheries and again made reference to this phenomenon, in recent years, of bills coming from the House of Commons. In *R. v. Ulybel Enterprises Limited*, 2002, the Supreme Court states:

... s 72(1)1 was amended ... Indeed, this was the only meaningful change made to s. 72(1). A review of the Minutes of Proceedings of the Legislative Committee and the Parliamentary debates in Hansard offers little insight into the intention of Parliament in making this change in the forfeiture provision. In fact, no references were made to this specific section in either the Committee hearings or the Parliamentary debate that preceded its amendment.

The Senate committee is being quoted more often now than ever before. In the past year, for example, in *R. v. Sharpe*, the Supreme Court of Canada, after examining the meaning of a particular clause, at paragraph 127, the Chief Justice says this:

After expressing concern over the potential for constitutional problems arising from Bill C-128, the Honourable Gérard-A. Beaudoin, Chairman of the Senate Committee, concluded:

There is, obviously, also the problem the courts will face.

Then the Chief Justice of the Supreme Court of Canada says,

As Senator Beaudoin predicted ...

Hon. Senators: Hear, hear!

Senator Baker: Honourable senators, I raise this point simply to point out to senators that this process that we are going through now, and that the committee went through, is useful, and that our courts more than ever are examining the procedures.

I must admit that the Standing Senate Committee on Legal and Constitutional Affairs has done an excellent job, and I am sure that the minutes of those meetings will be read more than once, because there are several serious problems that will be encountered in the interpretation of the legislation.

Senator Kinsella mentioned an objection that I had. It is not a technical problem; it is a major problem. Summary conviction offences under the bill will have a time limitation, not of six months, as the Criminal Code has for summary conviction offences, but seven years. A person may be sentenced to seven years for a summary conviction offence. That is a major problem, but that is a part of this bill.

I intervened simply to show that what we say here in this chamber and what is heard in the committee is examined in our courts, and I can assure you that, from my reading, the courts have come to the conclusion that those errors have gotten through the House of Commons because the bills are not examined, and they are corrected right here in the Senate.

Hon. Lorna Milne: Honourable senators, speaking to the point of order —

The Hon. the Speaker: We are trying to alternate between the government side and the opposition side. Having heard from the government side, even though it is supporting the opposition side, I will go to Senator Andreychuk.

Hon. A. Raynell Andreychuk: Honourable senators, I think the question is whether we can have clerical errors corrected by way of amendment or otherwise, as has been pointed out by Senator Kinsella and other speakers on the point of order. I would encourage His Honour to take into account the proceedings in the Standing Senate Committee on Legal and Constitutional Affairs. If these were only clerical errors and if these were the only amendments that we were looking for —

The Hon. the Speaker: Senator Andreychuk, I am sorry to interrupt. You will have to continue later.

Debate suspended.

BUDGET IMPLEMENTATION BILL, 2003

THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Robichaud, P.C., for the third reading of Bill C-28, An Act to implement certain provisions of the budget tabled in Parliament on February 18, 2003.

On the motion in amendment of the Honourable Senator Nolin, seconded by the Honourable Senator Murray, P.C., that the Bill be not now read a third time but that it be amended in clause 64, on page 55,

(a) by deleting lines 11 to 39; and

(b) by renumbering clauses 65 to 130 as clauses 64 to 129, and any cross-references thereto accordingly.

The Hon. the Speaker: Honourable senators, it being 5:15, it is my duty to interrupt the proceedings for purposes of putting the question on the amendment of Senator Nolin on Bill C-28. The bells will ring for 15 minutes, with the vote at 5:30 p.m. Call in the senators.

• (1730)

Motion in amendment negated on the following division:

YEAS

THE HONOURABLE SENATORS

Andreychuk
Atkins
Beaudoin
Bolduc
Buchanan
Cochrane
Comeau
Doody
Eyton
Forrestall
Kelleher
Keon
Kinsella
LeBreton

Lynch-Staunton
Meighen
Moore
Murray
Oliver
Prud'homme
Rivest
Robertson
Roche
Rossiter
Spivak
Stratton
Tkachuk—27

NAYS THE HONOURABLE SENATORS

Adams	Graham
Austin	Hubley
Bacon	Jaffer
Baker	Joyal
Biron	Kolber
Bryden	Kroft
Callbeck	Léger
Carstairs	Losier-Cool
Chalifoux	Mahovlich
Chaput	Milne
Christensen	Morin
Cook	Pearson
Cools	Phalen
Corbin	Poulin
Cordy	Poy
De Bané	Ringuette
Fairbairn	Robichaud
Ferretti Barth	Rompkey
Finnerty	Setlakwe
Fitzpatrick	Smith
Fraser	Stollery
Furey	Watt
Gill	Wiebe—46

ABSTENTIONS THE HONOURABLE SENATORS

Sparrow—1

The Hon. the Speaker: Is the house ready for the question on the main motion?

Hon. Senators: Question!

The Hon. the Speaker: I hear unanimity among senators. I will put the question.

It was moved by the Honourable Senator Carstairs, seconded by the Honourable Senator Robichaud, that Bill C-28, to implement certain provisions of the budget tabled in Parliament on February 18, 2003, be read the third time now.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

CANADA ELECTIONS ACT INCOME TAX ACT

BILL TO AMEND—THIRD READING— POINT OF ORDER—DEBATE CONTINUED

On the Order:

Third reading of Bill C-24, to amend the Canada Elections Act and the Income Tax Act (political financing).

The Hon. the Speaker: Honourable senators, we will resume debate on Senator Kinsella's point of order. Senator Andreychuk had the floor.

Hon. A. Raynell Andreychuk: Honourable senators, I simply point out that the amendments referenced by Senator Kinsella are clerical amendments or mistakes, if you wish. However, when His Honour considers the point of order, I hope he will also take into account what happened in the Standing Senate Committee on Legal and Constitutional Affairs. Not only were these errors noted in Bill C-24, but two other incidents were noted where the English and the French text did not correspond as to the law. In both of those cases, our legal counsel indicated, as did members of the Privy Council, that in order to rationalize them, one can implicitly state certain things into the sections.

When we have a bill before us such as Bill C-24, there are consequences to our democratic system and to the political parties that are dependent not only on certain finances but also on transparency and fairness. There other half of the matter is that those who volunteer should be encouraged to get involved in the democratic process. We face severe consequences if they tread on or contravene Bill C-24 in any way.

• (1740)

Should this bill pass, we will be accepting two clauses where, on the reading of it, you will not know whether the French or the English is the proper text. We have had to draw down interpretations explicitly to give meaning, sense and rationality to those clauses.

His Honour should take into account that this is not the kind of situation when, in haste, you prepare a piece of legislation and fingers drop down on keys, as someone said, and you go from a two to a one. These are fundamental errors that go to the essence of our democratic system. We want to encourage people to become involved but what do we have in this bill? This legislation is difficult to start with; it is as complex as the Income Tax Act. It has many meanings and references. If we are to encourage people to participate, we should have clear messages.

Senator Kinsella has indicated that there are options in how we amend and overcome clerical errors. We have already included in the bill many questionable things. To take the process further signals to the House, the government and the Department of Justice that we accept this lack of clarity in drafting. It sends the wrong signal.

It is in that spirit and in that light that the point of order is being called, not as one incidental, but as a continuum of problems in the drafting of this bill.

Hon. Lorna Milne: Honourable senators, in my opinion, this is not a valid point of order.

Some Hon. Senators: Oh, oh!

Senator Milne: I have never had so many admirers in my life!

The Standing Senate Committee on Legal and Constitutional Affairs quite properly had before it several ways of coping with what is obviously a clerical error, what is normally known as a parchment error. The members of the committee chose one way of dealing with the error. They did so quite properly. They have presented their report to us. There is nothing out of order whatsoever in this report. I suggest that we adopt the report.

Also, in response to what Senator Oliver said, we are not setting a precedent. When I chaired the Standing Senate Committee on Legal and Constitutional Affairs at least twice there were parchment errors that we corrected in this fashion with no problem whatsoever, either in committee or in this chamber. I am pretty sure this also happened when Senator Beaudoin was chair of the committee.

Hon Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, the crux of this matter is that our rules do not provide explicitly for these three methodologies of correcting errors that we have found in the bill.

I believe there is unanimous agreement on both sides that there are errors in the bill. We have on the record advice that there are three methodologies available to us.

Rule 1(1) of the *Rules of the Senate of Canada* states:

In all cases not provided for in these rules, the customs, usages, forms and proceedings of either House of the Parliament of Canada shall, *mutatis mutandis*, be followed in the Senate or in any committee thereof.

Honourable senators, I wish to underscore what Beauchesne advises us, and I am quoting from the sixth edition of Beauchesne, page 198, paragraph 657:

When a variance occurs in either the English or French text of a bill, it may be treated, with unanimous consent, as an editorial change.

There was not in the committee unanimous consent. Therefore, the clerical error approach, or passing it off to the clerk of this house and the clerk of the other place is not available to us. What is available to us is an amendment.

Honourable senators, let us look at the bill. On page 30 of the bill, those who testified before us recognized an error. On page 31, you find a reference to one clause in one language and reference to another clause in the other language. On page 33, honourable senators, you find in clause 2.1 in English reference to subparagraph 2(b)(i). In the French version, there is reference to clause 1(a); a clause that does not exist.

My understanding of the testimony that we had from experts was that we are not only dealing with simply a missing number or a number put in that does not exist, as in the example that I just gave you. On the top of page 56, we see a reference to subsection 435.3(1), which relates to an updated version of a document referred to in that section.

In the French version, there is reference to a document, but it does not tell us what document; it just says "du document." In the English version, it is absolutely clear what document we are talking about; in the French version, it is not clear in my opinion.

Some of the witnesses thought that if you read all of the other articles, the French version was clearer. However, in their opinion, there was a problem with the English version, which I thought was all right. They said that because they talk about a document and then they talk about an updated version of a document, there is a problem that in the English version, according to the witness, that the wording is more restrictive in the English than it is in the French.

Clearly, the error there is one of interpretation, and we had differences of opinion, but the expert testimony we heard was that they thought that the English version was more problematic for a different reason.

What is clearly indicated is that there is this error. Honourable senators, with the greatest of respect to the excellent work of legal drafters in this town, to the wonderful translators that we have, and to those who redact in either of our official languages, which are equal, at the end of the day, it is the judgment of the legislators. Are we to rely on a translator's or a drafter's interpretation?

To speak to the question raised by Senator Corbin, in reference to the page-34 error that was discovered, the history of that error goes back to government amendments number 12 and number 14, which were brought into the House of Commons committee to correct a different kind of an error. They brought this error in while correcting another error.

• (1750)

Honourable senators, what happened is that then it was passed by the House committee with the error. It was then not only reported, but it was also passed at report stage in the other place. It was considered and passed, with the error in it, at third reading and then it came

We have apprehended the error. I submit that the error ought to be corrected by amendment. That is our job. That is our duty. I further submit, as an issue of order, that you cannot correct it simply by passing it on to clerks, unless there is unanimous consent, which there was not in committee.

That is my point of order.

The Hon. the Speaker: Honourable senators, I need some time to reflect on this, at least 15 or 20 minutes. I would ask for the agreement of the house to suspend the sitting for that period of

time. There is an issue, however, that occurs to me as I look at the clock and that is, if I take more than 10 minutes, which is quite possible — or nine, I suppose — it will be six o'clock. Would it be your intention this evening, honourable senators, not to see the clock?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, there are two things I believe we would like to see His Honour do. One, clearly, is that he take the necessary time to make his ruling. We would agree not to see the clock at six o'clock, but we would also ask if His Honour could put the Speaker *pro tempore* in the chair while he considers his ruling and we could continue with other items.

The Hon. the Speaker: Is that agreed, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: I will then leave the Chair in favour of the Speaker *pro tempore* and return to the chamber as soon as I can.

[Translation]

MEMBERS OF PARLIAMENT RETIRING ALLOWANCES ACT PARLIAMENT OF CANADA ACT

BILL TO AMEND—THIRD READING

Hon. Fernand Robichaud moved the third reading of Bill C-39, to amend the Members of Parliament Retiring Allowances Act and the Parliament of Canada Act.

Motion agreed to and bill read third time and passed.

CANADIAN INTERNATIONAL DEVELOPMENT AGENCY BILL

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Bolduc, seconded by the Honourable Senator Cochrane, for the second reading of Bill S-17, an Act respecting the Canadian International Development Agency, to provide in particular for its continuation, governance, administration and accountability.
—(Honourable Senator Corbin).

Hon. Eymard G. Corbin: Honourable senators, first, permit me to congratulate Senator Bolduc for having introduced this bill. He did a significant amount of research and investigation on this issue. I am very impressed with the substance of his bill.

A few days ago, Senator De Bané told us why we should make no changes in the Canadian International Development Agency. We have heard valid arguments on both sides of the issue.

Over my 35-year career in Parliament, I have had the opportunity to observe the way this agency and its management operate. Senator De Bané and myself have had numerous opportunities to meet with CIDA spokespersons. We have travelled around the world, along with Senator Prud'homme and others, and were part of the first delegation of Canadian parliamentarians to go to Senegal. While there, we were, moreover, made members of the National Order of the Lion (Senegal). We also visited a project involved in motorizing fishing boats. The Senegalese were in danger whenever they had to go out beyond the sandbar and into the heavy ocean surf, as they regularly did.

In addition to motorizing fishing boats, CIDA provided the Senegalese with a means of refrigerating their catch, a tremendous advantage. But the greatest danger facing the Senegalese was, and moreover still is, high-seas fishing by foreigners. Ships of other countries are literally emptying the coasts of Africa of fish — just as they did off the coasts of Canada — and no one seems concerned.

A few years ago, during the summer, I had the opportunity to hire Senate pages to review the political constitution of the 50 or so African countries. The work consisted of determining how Canada was contributing to the development of these countries. The next year, I was looking over the results of that research, and I realized that events had already overtaken us. Political changes had taken place: putsches, revolutions, wars and massacres, and it continues to this day.

The formidable challenge that CIDA has to deal with is not limited to Africa, it involves everywhere in the world where there are pressing needs.

The Canadian International Development Agency has changed its focus over the years. Partnerships have been forged with NGO's.

Recently, during an conversation with someone from Ghana, I learned that CIDA is taking part in small \$10,000 to \$15,000 projects in Togo, the country next to Ghana. These are development initiative projects that CIDA has undertaken, either on its own, or with NGO's and sometimes even private companies. Canadian hospitals are involved in training projects with universities. Honourable senators are no doubt familiar with this type of work.

Is Senator De Bané right, or is Senator Bolduc right? I think both were quite convincing in defence of their arguments.

• (1800)

Nonetheless, I believe a senate committee could study Senator Bolduc's motion. Again, I congratulate Senator Bolduc. Preparing this bill for us required some hard work.

Senator De Bané does not stand to lose anything and the Senate could do the country a valuable service by calling various stakeholders in international development as witnesses. Fortunately, Senator Bolduc has provided us with the ideal tool for this purpose.

The type of discussions that could be held and the examples that could be provided in support of either scenario could keep us busy for some weeks. Such work is much better done calmly in committee. We could invite representatives from CIDA, NGOs, Canadian universities and so forth. I firmly believe this must be done.

In conclusion, I wish to pay tribute to Senator Bolduc. He and Senator Sparrow have impressed me deeply with their eloquent and passionate defence of their ideas.

As the most senior public servant in Quebec, Senator Bolduc came to us with extremely valuable experience in how to run a bureaucracy and make it accountable. He was always alert to bureaucracy-related problems and never hesitated to bring them to our attention. For this we are indebted to him.

Senator Bolduc, I wish you and your wife, Gisèle, a happy retirement.

Hon. Marcel Prud'homme: Honourable senators, the best tribute I could pay to Senator Bolduc would be to move that the debate be adjourned until the next sitting of the Senate.

Hon. Gérard-A. Beaudoin: They want to pass the bill.

Senator Prud'homme: That is another matter altogether, honourable senators.

The Hon. the Speaker pro tempore: Are honourable senators ready for the question?

Some Hon. Senators: Yes.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker pro tempore: When shall this bill be read the third time?

Hon. Roch Bolduc: Honourable senators, I move that the bill be referred to the Foreign Affairs Committee.

This bill deals with the machinery of government. It addresses foreign affairs, of course, and is a component of foreign policy. It addresses the constitution of a body, the component called "the machinery of government."

I think that these bills have always been referred to the Standing Committee on National Finance.

On motion of Senator Bolduc, bill referred to the Standing Senate Committee on National Finance.

[English]

MERCHANT NAVY VETERANS DAY BILL

THIRD READING

Hon. Noël A. Kinsella, for Senator Forrestall, moved the third reading of Bill C-411, to establish Merchant Navy Veterans Day.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

STATUTORY INSTRUMENTS ACT

BILL TO AMEND—SECOND READING

Hon. Wilfred P. Moore moved the second reading of Bill C-205, to amend the Statutory Instruments Act (disallowance procedure for statutory instruments).—(*Honourable Senator Robichaud, P.C.*).

He said: Honourable senators, I rise today to speak at second reading of Bill C-205. This bill, while introduced as a private member's bills by Mr. Gurmant Grewal, the member of the other place for Surrey Central, is the result of an all-party effort by members of the Standing Joint Committee of the Senate and the House of Commons for the Scrutiny of Regulations to implement an important reform of the current disallowance procedure.

Bill C-205 received unanimous support from the House of Commons and from our Standing Joint Committee for the Scrutiny of Regulations, which includes senators from both sides of this chamber. The purpose of the bill is to enact a statutory procedure allowing both Houses of Parliament to allow the repeal of regulations made pursuant to delegated statutory authority. Adoption of the bill would represent the most significant development in the parliamentary control of delegated legislation since the enactment of the Statutory Instruments Act more than 25 years ago.

As you are probably aware, a general disallowance procedure was put in place in 1986 by way of amendments to the Standing Orders of the House of Commons. A significant flaw in the existing disallowance procedure is that it does not provide a role for the Senate. Bill C-205 affords an opportunity to correct this omission and would give the Senate a full and equal role to that of the House of Commons in the disallowance process.

The procedure set out in the bill would require that both Houses agree to the disallowance of a regulation for that disallowance to come into effect, consistent with our bicameral system.

• (1810)

Another weakness of the current procedure is that it only applies to regulations made by the Governor in Council or a minister, but it does not apply to the many important regulations made by agencies such as the CRTC or the Canadian Transportation Agency.

The adoption of Bill C-205 will allow this to be corrected and ensure that Parliament's control extends to all regulations that are subject to review and scrutiny by the Standing Joint Committee of the Senate and the House of Commons for the Scrutiny of Regulations.

This bill gives Parliament a unique opportunity to effect a long overdue reform that will significantly improve the ability of parliamentarians to exercise effective control over the hundreds of regulations that govern the daily lives of Canadians.

I urge all senators to give their support to the adoption of Bill C-205.

[Translation]

Hon. Roch Bolduc: Honourable senators, I am pleased to support Bill C-205, to amend the Statutory Instruments Act (disallowance procedure for regulations). The bill's somewhat obscure title must not diminish the importance of the reform being proposed.

In fact, I can confirm without fear of contradiction that Bill C-205 represents without a doubt the most important reform of the federal regulatory process since the Statutory Instruments Act was passed in 1971.

The bill will allow the Canadian Parliament to exercise effective control over the legislative powers we regularly delegate to the government or various other administrative authorities.

This is, therefore, enabling legislation. These are powers commonly exercised through regulations, generally referred to as delegated legislation.

An important principle of our constitutional system is that legislation can be created only with the consent of both the Senate and the House of Commons. It is somewhat ironic to note that, although Parliament has won its historic war against the Crown for constitutional supremacy over legislation, for more than half a century, acts of Parliament have been conferring increasing and increasingly important legislative powers to the executive branch. If delegated legislation is to be seen as an inevitable consequence of the growth of government resulting from the decision-making process in our modern democracy under the pretext of extending equality and social justice to all, we must not, however, turn a blind eye to its weaknesses.

[English]

Parliamentary oversight of delegated legislation is of great importance. Adequate parliamentary scrutiny and adequate publication of regulations have come to be recognized as necessary accompaniments to the growth of delegated legislation in well-run communities.

Regulations, unlike laws, are not discussed particularly in public in the way that every bill that goes through Parliament is discussed. It is the role of the Standing Joint Committee of the Senate and the House of Commons for the Scrutiny of Regulations to provide this critical examination of delegated legislation on behalf of both Houses.

This joint committee of the Houses on which I had the privilege to serve a few years ago, and on which I served for at least three years, fulfills a critical role in ensuring that federal regulations meet minimum standards of legality and propriety. The task is thankless and certainly not politically glamorous, but very important. In my opinion, it is one of the most important committees we have.

Honourable senators, effective parliamentary scrutiny must be accompanied by effective parliamentary control. By this we mean that Parliament, in this case the two Houses, must have at its the means to ensure that if a delegated legislative authority is exercised improperly, the Houses can ensure that corrective action is taken by the delegate who has exercised the regulation-making authority.

[Translation]

Often, when using regulatory powers, public servants overstep their authority. The committee considers such instances to bring them back into line; otherwise the executive branch is not bound by any limitations.

[English]

Disallowance has been the traditional method of exercising that parliamentary control. This refers to the ability of Parliament to revoke or repeal a regulation made pursuant to authority granted by Parliament.

Until 1986, very few federal statutes included the possibility to disallow regulations or instruments made under the authority of those particular statutes. In 1986, as my colleague noted in his speech, the Conservative government put in place a general disallowance procedure in the Standing Orders of the House of Commons. My colleague has also mentioned the principal defects of that procedure. Since the procedure was based on Standing Orders rather than legislation, it could only apply to those federal regulations that are made by cabinet, the Governor in Council or a minister.

This created a gap between the scrutiny function of Parliament, which applies to all regulations, and the control function of Parliament which only went to some of those regulations. Bill C-205 would close this gap and ensure that disallowance is available with respect to all regulations, irrespective of who made them.

[Translation]

The second problem raised is the general procedure adopted in 1986, which only applies to the House of Commons. Bill C-205 would correct this situation and allow the Senate to play its full role in the disallowance procedure.

Under the procedure proposed in this bill, in order for regulations to be disallowed, both Houses must agree that the disallowance is justified under the circumstances. If one of the houses does not agree with a regulatory disallowance procedure being proposed, the regulation in question will continue to apply.

[Senator Bolduc]

Senators have every reason to be delighted that the bill recognizes the role of the Senate of Canada. This bill marks the end of almost 25 years of efforts by many parliamentarians to establish a disallowance procedure in Canada that is effective and balanced.

We have almost reached this goal. I invite all senators to support this bill.

[English]

The reform of the regulatory process that is proposed in this bill has been actively promoted over the last quarter of a century by those who have served on the Joint Committee for the Scrutiny of Regulations. My colleague mentioned in this regard former Senators Eugene Forsey, John Godfrey, Nathan Nurgitz, Normand Grimard, as well as Derek Lewis. All of these former joint chairmen and other parliamentarians have worked toward this goal.

The adoption of a general statutory disallowance procedure has not only been actively promoted by the Joint Committee for the Scrutiny of Regulations since the 1970s, but it has also been supported at various times by the McGrath committee in the other place, the Nielsen task force, as well as by the subcommittee on regulation and competitiveness.

There is a time for recommendations and there is a time for action, and the time for action has come. I urge all senators to support the speedy adoption of Bill C-205.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

THIRD READING

The Hon. the Speaker pro tempore: When shall this bill be read the third time?

Hon. Wilfred. P. Moore: With leave of the Senate, now.

The Hon. the Speaker pro tempore: Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

• (1820)

COPYRIGHT ACT

BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

Leave having been given to revert to Senate Public Bills:

Hon. Raymond C. Setlakwe moved the second reading of Bill S-20, to amend the Copyright Act.—(*Honourable Senator Day*).

He said: Honourable senators, at his request, I rise to move second reading of Bill S-20 in the name of Senator Day. Bill S-20 is designed to give photographers the same privileges as those accorded to other artists. Simply stated, I have a certain interest in the bill because three members of my family were professional photographers, two of whom were portrait artists: George Nakash, from Montreal; Yousuf Karsh, from Ottawa; and his brother, Malak Karsh, landscape and commercial photographer. All three, in their own right, were recognized universally as artists of the first order. Although there were certain restraints in the Copyright Act in respect of photographers, the time has come to universally recognize that photographers have an equal right to be recognized as authors and are entitled to copyright, as are all other authors and artists.

To point out the need for this recognition, aside from the three members of my family whom I have mentioned, need I mention that photographers such as Henri Cartier-Bresson or Ansel Adams, both of international repute, merit the same consideration? The United Kingdom and the United States, in their respective legislation, have recognized the rights of photographers to copyright privileges. Honourable senators, I think it fit and proper that the same be done by Canada.

Bill S-20, sponsored by Senator Day and to which he will speak, makes an exception to an omnibus bill that would amend the Copyright Act. This exception, to my understanding, is now generally recognized in all areas of government. I am hopeful that honourable senators will adopt Bill S-20.

It is difficult to define "artist," but I would illustrate my viewpoint with this remembrance: When Yousuf Karsh's photographs were on display in a museum in California, a man sat on a bench to admire a photograph of Pablo Casals. Someone nearby spoke in a loud voice and the man interrupted him to ask him to please be silent. The person who had spoken in the loud voice asked why he should be silent. The portrait admirer said: "Because I am listening to the music." Honourable senators, if that does not connote a certain artistic talent, then I do not know what does.

Hon. Francis William Mahovlich: Honourable senators, I urge any honourable senator who thinks that photography is not art to visit the Château Laurier to view the display of Karsh's work, including, I believe, the portrait of Pablo Casals.

Hon. Eymard G. Corbin: Honourable senators, I will not hold up the passage of Bill S-20 should that be the will of the house. As one who has had a lifetime interest in photography, I have read

every book of Ansel Adams' photography; I have examined with great admiration the work of Henri Cartier-Bresson, who is well into his 90s and currently having a major exhibition in Quebec; and I once approached Yousuf Karsh to have my portrait taken, but backed away when he quoted a price of \$900, which was well justified. Photography is a hobby of mine; that is how I relax when I am away from this place.

I will support the proposed legislation. I know how difficult it has been for hard-working photographers over the years to achieve simple recognition, even by the people who employ them. Photographers at *Life* magazine would produce amazing photographs for peanuts in return. They finally began to demand recognition for their work and the magazines gave in, one by one, but that does not mean that their copyright rights were protected, which became a long, protracted battle. Honourable senators, I support the initiative of Bill S-20.

On motion of Senator Robichaud, for Senator Day, debate adjourned.

COMPETITION ACT

BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

Leave having been given to revert to Commons Bills:

On the Order:

Resuming debate on the motion of the Honourable Senator Kirby, seconded by the Honourable Senator Cook, for the second reading of Bill C-249, to amend the Competition Act.—(*Honourable Senator Eyton*).

Hon. J. Trevor Eyton: Honourable senators, the Competition Act received its last major overhaul in 1986 when the former government passed Bill C-91. When the then Minister of Consumer and Corporate Affairs, Mr. Michel Côté, spoke to Bill C-91 at second reading, he noted that:

The private sector or the marketplace must be the real driving force behind the most equitable sharing of resources, economic growth and job creation. We do know that the market system within a competitive framework paves the way for a dynamic flourishing committee.

Bill C-91 stood the test of time because it was the product of extensive consultations, not just with businesses large and small, but also with provincial governments, consumer groups and organized labour.

Minor changes to the Competition Act were made two years ago and those changes were again preceded by extensive consultation. The Competition Bureau fears that a recent court loss will completely undermine its ability to prevent mergers that are not in the public interest. Five years ago, Superior Propane, with whom I was once associated, reached an agreement to acquire PetroCanada's propane business to give it 70 per cent of the national market and 100 per cent of certain markets, including Yukon.

These obvious public policy concerns arise when one company gains a monopoly to provide the fuel that heats homes and work places in rural areas, for example in Yukon. In this industry, barriers to entry are stiff, making it unlikely that someone else will enter the market at any time soon. The Competition Bureau opposed the merger but lost before the Competition Tribunal and in other courtrooms on the basis of what is known as the efficiency test. From a business perspective, it is likely more efficient to operate one company than two. However, from a consumer perspective, those efficiencies may not result in lower prices or better service, but rather lead to monopoly pricing or reduced service. Most would agree that the Competition Act should try to prevent such outcomes. What may be good for a particular company in those circumstances may not be good for consumers and other businesses.

• (1830)

It has long been understood that to successfully argue the efficiency defence, parties to a merger had to persuade the Competition Tribunal the result would generate efficiencies more than offsetting the anti-competitive effects of the merger. Indeed, until recently, the efficiencies test had not been a major factor in Competition Tribunal rulings.

The government fears this recent ruling has destroyed one of the key elements of the Competition Act because the cost savings realized from joining two companies can trump the impact of potentially higher prices to ordinary consumers. Our current Competition Commissioner, Mr. von Finckenstein, noted in the *National Post* on April 2, that the interpretation given "means the Competition Act condones the creation of monopolies." He may have been overstating; but that, of course, was his feeling.

In theory, this is a private members' bill introduced in the other place by Mr. Dan McTeague. The reality is that it is a government bill in all but name. When the Competition Bureau decided against an appeal in the Supreme Court, effectively conceding the Superior Propane battle, this bill was on the Order Paper and presented a convenient way to ensure there would not be a repeat.

Thus, a bill that received first reading two years ago in a previous session and which had languished in committee for more than a year was suddenly vaulted to the top of the Order Paper. The bill, as originally drafted, would have required that for a merger to pass the efficiency test, consumers would have to benefit. Along the way, it got amended — with the government's blessing — to make efficiency only one of many factors looked at by the regulators. Either way, efficiencies for the merging companies will not automatically win out over the interests of the public.

A key test where the effect of a merger is to create a near monopoly has to be the public interest. This is a good thing and I support this bill at second reading.

Unlike previous amendments to the Competition Act, this bill was not the subject of extensive advance consultation. Indeed, representatives of the Canadian Bar Association prepared their presentation to the Industry Committee on the basis of the bill as

drafted, only to find out at the last minute that they were about to testify on a bill that was being rewritten.

I hope in committee that the government establishes that this bill does in fact restore the original intent of the legislation and that we do not learn of problems that could have been avoided if the government had held the same consultations that preceded previous amendments to the Competition Act.

I would also like to hear a response to the concerns expressed by the Chamber of Commerce before the committee in the other place that this bill will change the focus of the Competition Act from a statute that promotes the creation of wealth to a statute that serves to redistribute wealth.

It would be helpful if that the government used the Senate committee hearings on this bill to tell us what it plans to do with the April 2002 report of the Commons Industry Committee on future amendments to the Competition Act.

Finally, honourable senators, I close by noting that the Competition Act is legislation intended to ensure there is competition within Canada; and, of course, that would mean indirectly that Canadian business can be more competitive outside of Canada. There is much more that can and should be done in that regard, but that is for another day. For the moment, I support bill C-249.

On motion of Senator Robichaud, for Senator Kirby, debate adjourned.

STUDY ON TRADE RELATIONSHIPS WITH UNITED STATES AND MEXICO

INTERIM REPORT OF FOREIGN AFFAIRS COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the fourth report (interim) of the Standing Senate Committee on Foreign Affairs entitled: *Uncertain Access: The Consequences of U.S. Security and Trade Actions for Canadian Trade Policy (Volume 1)*, tabled in the Senate on June 13, 2003.—(Honourable Senator Stollery).

Hon. Peter A. Stollery moved the adoption of the report.

He said: Honourable senators, I recognize that it is after six o'clock and we still have important business to get through to finish the Order Paper. However, I would like to make a few comments about the very important review of the free trade agreement with the United States that the Standing Senate Committee on Foreign Affairs completed and tabled in the chamber last Friday.

I was talking about our report with some people last night, someone asked me if should we just get out of the free trade agreement with the United States. I said, what would we get out of? Would we go back to 1998 and put the tariffs back on? What would be the point of that? Would we go back to 1988 and a dispute settlement mechanism under the GATT that was very ineffective? Why would you do that?

I explained, as our witnesses said — and we heard from 90-odd witnesses in Canada and about 60 in Washington — that the effects of the free trade agreement basically have ended. They ended probably with the final removal of tariffs between Canada and the U.S. in 1998. Many people are unaware of the fact that what Canada has to do, and it is described very well in our report, is move forward. Where do we go now with our trade relations in the world? We should not look back.

Honourable senators, the report deals with several major concerns, including security and infrastructure. As everyone knows in Canada, the Americans have a serious security concern about their border. A truck carrying merchandise crosses that border every two and a half seconds. An interesting observation about infrastructure is that more trade travels across the bridge between Windsor and Detroit than the entire U.S.-Japanese trade, which is quite incredible. I think that bridge was built around 1930. We have an infrastructure on our border — and the committee is very concerned about this, particularly in Ontario, where I am from — that is archaic and has to be brought up to modern standards.

The committee unanimously stated that the government must work harder to explain to Americans outside of Washington, outside of the border areas, that Canada is a very secure country. We have gone to a great deal of trouble to make that border safe and secure, and we have to tell people that. We have done it, but we have to tell people.

One of our recommendations is to open more consulates in what is called the heartland of the United States. I was delighted to learn yesterday that the government announced that it will in fact open more consulates in the United States.

The second issue deals with dispute settlements, disputes between Canada and the U.S. over trade matters. Before 1988, there was a system under the GATT that did not work very well. The negotiators of the free trade agreement tried to come up with something that was a little better than that, but it did not work. The reason it did not work is well described in an article on U.S. trade remedy law. It is what I call the big catch — the fact that binational panels determine whether a final determination is in accordance with anti-dumping laws of the NAFTA country in which the decision is made.

• (1840)

If the panel finds that the determination was in accordance with the domestic law, the determination is affirmed. When are you dealing with the Americans and the congressional system, which is controlled by the Congress, if you lose a case — and we have examples where they lost a case based on their own national law — they change the national law. Then you hear the case again.

To give you an indication of the cost of this, we have evidence that on the softwood lumber dispute, which has been around for a long time, the legal fees alone, since the late 1980s, which is about the time the free trade agreement came into force, are about \$800 million.

Every time the Wheat Board hears a dispute — I think we heard the same dispute 10 or 11 times in Winnipeg — it costs about \$2 million or \$3 million in legal fees.

The dispute settlement arrangement is dealt with in article 19 and there are two other articles, but I do not think they would be of interest because they are seldom used. There was no World Trade Organization when the free trade agreement came into effect. The World Trade Organization dispute settlement system started in 1995. Dispute settlement problems generally go to the WTO, which is expensive, but it is effective. The previous procedure is no longer followed. Dispute settlement was taken over by the WTO.

As has been pointed out for at least 40 years, there is a danger of having 87 per cent of our trade with one country. As Senator Di Nino has pointed out, the danger lies in having all of our eggs in one basket. Given the current security situation, it is particularly dangerous.

If there were is another security alert in the United States and the border is closed as it was on September 11, there would be a repeat of the 20-kilometres lineups of vehicles trying to cross into the United States. Interestingly, 13 per cent of our exports to the United States go through a pipeline, or along electrical transmission lines. However, 25 per cent are related to the Auto Pact. The Auto Pact operates on a time-related system. For reasons for productivity, engine blocks made in Oshawa must be shipped to a factory in the U.S., under very tight time constraints. Any disruption of that system affects 25 per cent of Canadian exports to the U.S. Let me remind you that 37 per cent of our GDP depends on trade with the U.S.

The committee noted that this is a very serious situation.

What are we going to do about it? There is movement in the European Union, and there is no doubt that China is becoming an enormous global trading partner. Canada must work harder to create more diversification to increase its trade with other countries. We all know that the U.S. will remain our major trading partner. Anyone who does not think that is not being realistic.

Honourable senators, I am conscious of the hour, but I wish to make a couple more points before I conclude my remarks.

It is important to note that the trading system is in the hands of the producers and not of the consumers. The consumers have never been able to organize themselves. The best example of that is that every house in the United States costs \$1,500 more than it should because of the softwood lumber dispute.

In Washington, we heard from 13 or 14 consumer groups, including home-buyers. They were unanimous that Canada should stick to its position at the WTO and make no concessions. The committee took that very seriously. It was powerful evidence.

I would end by emphasizing the fact that Canada must look forward in our trading relationships, not backwards. The free trade agreement, with its pluses and minuses, has ended, whether we like it or not. It has perhaps not made as much difference as its

promoters would have liked, or had as many bad effect as some anticipated. I was one of the opponents to its implementation in 1988. I was on the Foreign Affairs Committee with Senator MacEachen, when a major argument erupted. I do not intend to replay that. Certainly, our hearings were not a replay of what took place in 1988.

The multilateral system, which the McDonald report in the 1980s said was so important for Canada, is still important for Canada. You hear of the Doha Round and globalization and I will not take up the time of senators describing what all of these things mean, because many people here know what they mean, but the multilateral system is extremely important for Canada.

We will not arrive at an improved dispute settlement system with the United States on way of a one-by-one relationship. We can dream, but it will not happen. The reason it will not happen is because the U.S. Congress is elected every two years, so it is a permanent election machine. The administration can make any kind of an arrangement it wishes, but if the Congress does not like it, it will not happen.

It is important to Canadians that, in the WTO, with 147 countries, the U.S. government along with 146 other countries, signs on to dispute settlement mechanisms, in order to have a rules-based system in trade. It is difficult for people comprehend the overall effect of this because it is so dispersed. The WHO has 147 signatories all of whom must deal with their own agricultural issues, services issues, and so on, but it is crucial for Canada that the United States signs any dispute settlement mechanism. That is one of the major recommendations in our report. You will learn a great deal about trade relations between the U.S. and Canada if you read our report.

Honourable senators, that concludes my remarks this evening. I know that other senators wish to speak to this order.

Hon. Jack Austin: Honourable senators, the Standing Senate Committee on Foreign Affairs is tabling its report: "Uncertain Access: The Consequences of U.S. Security and Trade Actions for Canadian Trade Policy (Volume 1)" which is rendering a valuable service to those Canadians who take interest in or have concern for commercial relations with the United States of America.

The order of reference from the Senate of November 21, 2002, authorized the committee to examine and report on the Canada-United States trade relationship, the Canada-Mexico trade relationship, with special attention to the North American Free Trade Agreement of 1992, the free trade agreement of 1988, secure access for Canadian goods and services to the United States and Mexico, and the development of effective dispute settlement mechanisms, all in the context of Canada's economic links with the countries of the Americas and the Doha Round of the WTO.

• (1850)

This report is focused on the Canada-United States bilateral relationship. The committee proposes to continue its work with priority attention to be given to the Canada-Mexico trade relationship in the months ahead.

It is not easy to summarize a detailed report on a complex bilateral economic relationship. The guiding star, however, is the objective of reaching with the United States open and unimpeded market access for Canadian goods, services and investment on an equal and reciprocal basis. Achieving this objective requires the recognition by each country of the value of their overall economic interaction and their continuing attention to improving the trading system.

The report gives priority to the impact on bilateral trade relations of the September 11, 2001, terrorist strike against the United States resulting in the death of nearly 3,000 people and the destruction of the two World Trade Towers in Lower Manhattan. The Bush administration has put in place securities, laws and procedures that inevitably have the effect of restraining normal flows of goods and people across the border. The committee recognizes the validity of U.S. security concerns and commends both governments for the rapid and generally effective 30-point border action plan.

In evidence, we often heard the phrase "security trumps trade." Canadians must not only recognize the validity of that United States' concern but take it just as seriously as does the United States. Moreover, it is incumbent on us all to make clear to the United States government and its citizens that we share their concern and that we measure up to the test of being a secure trading partner.

In the operation of an effective bilateral trade relationship, Canada and the United States must also recognize the neglect they have both practiced with respect to the physical infrastructure which is necessary to foster the relationship. The committee heard much convincing evidence that the current infrastructure — roads, bridges, tunnels, waiting and bypass lanes, and the use of identification technology for people and for goods — is woefully inadequate. Evidence given to the Senate Foreign Affairs Committee pointed to the 120 per cent growth in two-way trade since the launch of NAFTA without any increase in border infrastructure. The three busiest border crossings all involve old bridges. The Ambassador Bridge connecting Windsor and Detroit was constructed in 1929; the Peace Bridge linking Fort Erie with Buffalo was erected in 1927; and the Blue Water Bridge between Sarnia and Port Huron was built in 1938.

While the problem of infrastructure is significant, some important steps are being taken. The Canadian federal budget of December 10, 2001, allocated more than \$600 million over five years to border access investment. Experimental programs are in place for pre-clearance of travellers and goods.

A further major concern in the report of the Standing Senate Committee on Foreign Affairs is focused on issues of trade restraint. The imposition of anti-dumping, countervail and other trade barriers, both quantitative and qualitative, was the subject of a major portion of the evidence received from witnesses. We examined with considerable care the present trade differences in softwood lumber, wheat, steel and certain agricultural products. We also received representations regarding the role of future energy investment in our overall trade relationship.

As honourable senators know, the free trade agreement of 1988 and the NAFTA of 1992 provide for domestic law to be applicable to determining the management of the trade relationship. To illustrate, in the softwood lumber dispute, the United States can apply its own versions of anti-dumping and countervail law. The dispute settlement panel, so-called, under NAFTA has as its terms of reference to determine whether the domestic trade law was applied properly in each circumstance. We have seen repeatedly over the last 20 years U.S. softwood lumber producers use U.S. trade law to achieve market protection against Canadian softwood lumber imports. On every occasion where NAFTA adjudication has taken place, the U.S. has been found to have applied their measures inappropriately.

Canada exports some \$10 billion of softwood lumber to the United States annually. About half of that comes from British Columbia. Quebec has about \$2 billion of exports. The result of combined anti-dumping and countervail measures initiated by the U.S. softwood producers in April 2001 has been reduced exports, mill shutdowns, loss of employment, and severe damage to communities and to the revenues of the affected provinces.

The issue is complex. Briefly described, it is the charge by U.S. producers for the fourth time in 20 years that provincial governments subsidize lumber producers through their policies of selling cutting rights on Crown lands. This issue has been adjudicated on several occasions, including a recent WTO decision, and no subsidy has been demonstrated. From Canada's perspective, U.S. actions are pure protectionism.

I have mentioned the WTO, and I should explain that following NAFTA, the members of the GATT, the General Agreement on Tariffs and Trade, including Canada and the United States, entered into a major revision of world trading rules and created a successor organization, the World Trade Organization. Power was given to the WTO to organize panels for dispute settlement that can hand down binding decisions. The softwood lumber dispute is the subject of a dispute settlement process at both NAFTA and the WTO.

It is not my purpose here to delve into the entire geography of issues in the softwood lumber dispute. The role of the standing Senate committee was to study that dispute in order to consider a better method of dealing with dispute settlement than NAFTA currently provides.

It would appear that the softwood lumber dispute will be dealt with on an interim basis through negotiation. The Senate Foreign Affairs Committee wants to see a long-term solution that will provide unfettered access for Canadian forest products. We also seek the establishment of mechanisms in NAFTA that will settle disputes through mutually agreed trade law and not through processes of political leverage and protectionist gains.

The committee had the benefit of expertise to assist in considering whether there should be any initiative taken by Canada to change the institutional arrangements now in force in our trading relationship with the United States. Assessing the evidence, the committee heard that while the FTA and NAFTA

have been of value in improving trade flows between Canada and the United States, much of our bilateral trade had been tariff free before 1989 and other tariff lines were at low levels owing to successive rounds of GATT tariff reduction.

Professor John Helliwell of the University of British Columbia told the committee that the U.S. strong dollar policy during the 1990s had been the most significant influence leading to the growth of exports to the United States during that decade. The issue of currency levels and their relation to trade is one which I believe the committee should further examine.

What about further integration? Most opinion offered to the committee suggests that obtaining more per capita growth for Canadians from the bilateral relationship is probably not worth the cost in further integration and the loss of sovereignty. Again, Professor Helliwell suggested that most of the gains from available trade integration and liberalization have already been realized.

On balance, the committee is of the view that Canada should continue to emphasize multilateralism in its trade relations with the United States and give its best efforts to the current Doha Round of trade negotiations under the WTO.

Time limits my considering here a number of other issues dealt with in the committee report. However, I believe, in closing, that my comments should emphasize the committee's view of the importance of two initiatives that form part of our recommendations.

The first is that the NAFTA partners implement their original agreement to establish a permanent NAFTA secretariat that can examine means by which trade disputes can be resolved within NAFTA and which can examine longer-term trade policy issues and provide reports, which could consider a NAFTA approach to the multilateral trade system. The value of such a secretariat in creating a common dialogue and better mutual understanding cannot be overstated.

The other initiative is for Canada itself. We must increase our interaction with the political and business communities of the United States. We see the need for more consular reputation. We also see the value of our parliamentary relationship with members of the U.S. Congress in making them more aware of our interests.

• (1900)

A further proposal is for the establishment of a government-funded council to conduct analytical research on trade and investment issues so that the national policy debate is properly founded in facts.

The committee learned from the Canadian embassy in Washington that Canada is the leading trade partner or investor in 39 of the 50 states of our southern neighbour. They are not aware, and Canadians generally are not aware, of this key knowledge. Awareness can be a significant point of departure in this decade.

On motion of Senator Kinsella, for Senator Di Nino, debate adjourned.

CANADA ELECTIONS ACT INCOME TAX ACT

BILL TO AMEND—THIRD READING— POINT OF ORDER—SPEAKER'S RULING

On the Order:

Third reading of Bill C-24, to amend the Canada Elections Act and the Income Tax Act (political financing).

The Hon. the Speaker: Honourable senators, thank you for your patience in giving me time to consider the ruling that was requested of me with respect to a point of order. The point of order was raised by Senator Kinsella. I thank Senator Kinsella and all those who intervened for their interventions and comments. I am now prepared to rule.

I would observe that, when honourable senators gave me an opportunity to consider my ruling, we had before us Bill C-24 at third reading stage.

I start by reciting rule 97(4) which provides:

When a committee reports a bill without amendment, such report shall stand adopted without any motion, and the Senator in charge of the bill shall move that it be read a third time on a future day.

In the case of the seventh report of the Standing Senate Committee on Legal and Constitutional Affairs, leave was given to consider the report later this day. Before putting the motion, Senator Kinsella rose on his point of order.

I refer to the rule to point out that I believe the bill is properly before us in terms of compliance with our rules. The committee reported the bill without amendment, a very important fact which I bring to your attention.

The point of order, as I understand it, concerns the requested changes referred to in the observations made by the committee in the context of asking the law clerk to deal with those changes as clerical errors. The request was that those changes should be dealt with as amendments in the absence of the unanimous consent of the committee to adopt that part of the report.

I remind honourable senators that this form of instruction in a committee report is consistent with past practice in the Senate. I do not want to go into a lot of detail, but I refer honourable senators to the *Debates of the Senate* of June 28, 1988, at page 3751 and 3752. The Senate received a report with an observation which stated:

Having found, however, that there were certain incorrect cross-references in the Bill as passed by the House of Commons, the Committee has asked that these editorial errors be corrected in the parchment of the Bill by officials of both Houses prior to its third reading in the Senate.

Another example would be from the *Debates of the Senate* of December 6, 2001, at page 1885, concerns the thirteenth report of the Standing Senate Committee on Legal and Constitutional Affairs, then chaired by Senator Milne. The observation stated:

Your Committee notes that it instructed the Law Clerk and Parliamentary Counsel to correct a printing error in the parchment. On page 12...

I would also refer honourable senators to the exchange recorded in the *Debates of the Senate* of May 18, 1988, at pages 3436 to 3437, and on May 19, 1988, at 3448 to 3450. I will quote in part from that section, from an intervention by Senator Frith where a request was made for an opinion from parliamentary counsel. A memorandum to the Clerk of the Senate, then Mr. Lussier, from Mr. du Plessis, was read into the record. It stated, in part:

No guidelines have been established for deciding which errors are the proper subject-matter of clerical correction and which require parliamentary amendment. A good guide for clerical correction is to work by analogy to errors that the courts would feel comfortable in characterizing as "an obvious typographical error or slip of the draftsman's pen." Dreidger, *Construction of Statutes*.

That brings me to the heart of what I will be ruling on: That is, the concern highlighted by the point of order that something like that could only be done with unanimous consent. I quote from *Beauchesne's Parliamentary Rules & Forms*, Fifth Edition. Paragraph 728 at page 223 is not necessarily right on point, although it is partly on point and it covers the matters before us.

When a variance occurs in either the English or French texts of a bill, it may be treated, with unanimous consent, as an editorial change.

The words "editorial" and "clerical" have been used interchangeably in many of the references I have seen.

I emphasize the word "may" in that paragraph from Beauchesne. Certainly unanimous consent is one way to proceed but not the only way. The committee proceeded in accordance with Senate practices; that is, by majority vote. I believe that the committee acted correctly, that the report is properly before us and that we should not go behind the integrity of the committee.

The only time that we require unanimous consent is when we suspend a written rule or when we depart from an established practice. In those cases, unanimous consent is required. That is not the situation before us.

Accordingly, honourable senators, I do not feel that there is a point of order. The observations of the committee, which contain instructions, are in order. It is in order for us to proceed to deal with the bill at third reading.

Senator Robichaud: Question!

The Hon. the Speaker: I remind Senator Robichaud that the motion had not been read when Senator Kinsella made his point of order.

[Translation]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I had moved third reading of the bill and right after that, Senator Kinsella rose on a point of order.

I move, for greater certainty, third reading of Bill C-24.

The Hon. the Speaker: Honourable senators, it was moved by the Honourable Senator Robichaud, seconded by the Honourable Senator Rompkey, that this bill be read the third time. Is it your pleasure to adopt the motion?

• (1910)

[English]

Hon. Donald H. Oliver: Honourable senators, I rise today to speak to Bill C-24, to amend the Canada Elections Act and the Income Tax Act dealing with political financing.

I first wish to identify myself with remarks made earlier on this bill by my colleague Senator Angus.

I came to the discussion of election law with some background on this subject. I represented the Progressive Conservative Party as its legal advisor on election law during six national campaigns, 1972, 1974, 1979, 1980, 1984 and 1988 general elections.

I was one of the commissioners on the Royal Commission on Election Reform and Election Financing, established after the 1988 general legislation. This Royal Commission represented last thorough independent study of election law in Canada. It had representatives from the three recognized parties at that time, and its conclusions and recommendations were arrived at through consensus.

The building of consensus and ensuring that the proposed election reforms had all-party support carried over to the implementation of these recommendations through the reports of the Special Committee of the House of Commons on Electoral Reform chaired by Mr. Jim Hawkes. That committee made two significant reports to the House of Commons. These were unanimous reports. They were acted upon by Parliament with debate, agreement and without the use of closure or time allocation. However, that is not the Liberal way. If I recall correctly, every electoral bill introduced since this government came into power has at least been the subject of time allocation in the House of Commons.

Today, I wish to address the general philosophy behind Bill C-24. As a lawyer analyzing legislation, one always likes to determine the evil which the proposed legislation is to address and, from there, decide whether it has accomplished its goal. The evil or wrong that this bill is designed to right or address is the allegation of the inordinate or perhaps undue influence exercised by the corporate sector by virtue of donations over the political process.

There is a perception that with the donation of money comes influence or favours being given by the party, especially the party in power, to the corporate donor. This perception of influence and, in the case of government, the reality of this influence, lowers the public's view of the integrity of all those involved in political process in Canada. The reality is that what was needed was not electoral reform, but true regime administrative accountability.

Another approach might have been the establishment of a truly independent ethics counsellor. My party has suggested that for many years.

We are now faced with a prime minister searching for a legacy, who has found a way to use the public purse to perpetuate a funding advantage to the Liberal Party through the guise of electoral reform.

The Prime Minister has been able to blame the Canada Elections Act for the problems and scandals that have beset him and his government in the last two terms. What should be the overarching principles of a bill that seek to fundamentally change the way parties and candidates are funded? The Prime Minister established two; disclosure and accountability. However, he has never articulated the third, which I would argue overrides the other two, and that is fairness.

As Pierre Lortie, who chaired the Royal Commission on Electoral Reform said:

... without laws that promote fairness, we may have a free society, but we will not have a truly democratic society.

In testimony before the House of Commons special committee, he went on to say:

Canadian electoral laws have long accepted that fairness must be a central premise of our electoral process. Our laws concerning the state's responsibility for registering voters, the use of independent boundaries commissions, the provision of free broadcasting time, and among other things, candidate and party finance have demonstrated inconclusively that Canadians want, and expect, and know it is possible to have fair elections.

There is nothing fair about electoral reform pushed through by Parliament when it is the governing party that benefits the most from its passage. If change to our electoral system is to be legitimate, it must create or ensure a level playing field. It must enhance the system's ability to reflect the electoral will of the people. However, this bill does not do that. This bill shifts the costs of conducting elections from the public at large, corporations, unions and large private donors, on to the backs of Canadian taxpayers. Columnist Diane Francis has referred to this as the nationalization of the democratic process.

I believe there is something very wrong if democracy has to be funded overwhelmingly by the state. Rather than deal directly with the influence exercised by large corporate donors on this government through an effective ministerial accountability or ethics regime, we are faced with a bill that entrenches taxpayer support for political parties, whether the taxpayer supports that party or not.

This is supposed to be a measure that raises the political process in the eyes of the public. As it stands now, it is simply one more tax grab by a government and by a prime minister searching for a legacy and for a reason to govern.

If we were to make such a fundamental change in our electoral financing system, I would have thought that the government would be bringing forth impact studies to support it. I would have thought that we would at least have an independent study completed that would demonstrate how this would or perhaps would not benefit the Canadian political system. Nothing like that has been done.

The last major study in this area of election financing started in 1989 and was completed in 1992, after intrusive and exclusive consultation reached a conclusion that would be entirely opposite to the conclusion that we will be faced if Bill C-24 becomes law.

I would like to take a moment to review the major findings and recommendations of the Royal Commission on Electoral Reform in which Senator Lucie Pépin and I both participated. It dealt with the issue of political considerations and undue influence in the context of the existing criminal law. On page 432 of the report it states, "Contributions made in the expectation that special privileges will result are illegal." The report goes on to discuss fraud and bribery as they are related to the electoral process from the definitions contained in Criminal Code.

Rather than making contributions illegal, or banning them from certain donors, the Royal Commission recommended that, in training sessions, sections of the Criminal Code could be brought to the attention of candidates, official agents and all those involved in election or party fundraising.

The commission recognized that Canada has an electoral finance regime that is primarily characterized by spending limits for candidates and parties. The commission felt that limits in this way ensured fairness to the electoral process. The commission proceeded to examine the possibility of introducing limits on contributions and reviewed all of the statistical information from the 1998 general election. Having done that, the commission stated:

While some may have a perception to the contrary, there are few instances in Canadian candidate and party financing when a contribution's size relative to total revenue would reasonably give rise to suspicion that the donor may acquire undue influence.

The commission reviewed the electoral laws of the provinces and the United States, where there are limits on contributions. However, after extensive analysis of how such limits would affect the federal electoral scene in Canada, they concluded that most of the contributions in federal elections came within the provincial limits.

The commission stated, at page 441, "...comprehensive spending limits, federally, help check the demand for political contributions." Spending limits the commission delivered encouraged fairness in the system, as well as lessened the need

to amass large financial resources. You cannot spend the money, anyway.

Looking specifically at fundraising by candidates, the commission once again concluded that nothing would be gained by introducing contribution limits. The commission did recommend a broadening of disclosure on a twice-a-year basis.

The commission also looked at contribution sources of funds. Arguments were raised before the commission that only individuals should be allowed to make political contributions. This was on the basis that only individuals are allowed to vote.

After weighing the evidence, the commission agreed with those who would not impose limitations on the sources of contributions. The Chamber of Commerce of Montreal, in its testimony before the commission, perhaps stated the reasons for its decision best:

We believe the most important element is the fullest possible disclosure of the sources of the funds of the candidates and political parties. It is perhaps more important to ensure such transparency than to opt for a limitation on the sources of financing that could risk opening the door to contributions whose origins are obscured in various ways.

• (1920)

The commission was also concerned that a ban on contributions by corporations may contravene the Canadian Charter of Rights and Freedoms. Again, the commission believed that full disclosure of contributions was the answer. It stated:

Canadian organizations with a stake in the political future of the country should not be prevented from supporting parties and candidates who share their policies and values, provided the public has the full opportunity to be informed about these financial activities. Nor should an account be created to channel funds from those organizations to groups outside the political system.

These were recommendations of the Royal Commission on Electoral Financing, based on three years of delving into these issues, and having the benefit of advice from Canadians right across the country.

We now have a bill in front of us that entrenches inequality. Even the electoral financing laws of the United States in the area of financial rebates treat political parties with some measure of equality. In the United States, parties are eligible for general election funding if they receive 5 per cent of the vote in the prior general election. Once qualified, each party receives an equal distribution of funds. This gives mainline parties access to funds and keeps the funding of fringe parties to a minimum. The system obviously is not perfect, but it would work in Canada and would, at least, approach the concept of a level playing field.

When Canadians contribute to a party as private citizens, or as corporate or union citizens, they can choose the party they wish to support. However, when the state donates on behalf of citizens, it should not favour one party over another as this legislation does.

What we have here in Bill C-24 is a proposal that will skew the system. This Liberal government will hand out \$1.75 per vote to each party based on the results from the previous election — regardless of the appeal that party presently holds. The taxpayer funds politics based on past successes not present ideas and not present platforms. It means that taxpayers from all across this country will be paying to subsidize the efforts of the Bloc Québécois and other registered parties of whom they may never have heard. That is on one end of the spectrum.

At the other end sits the Liberal Party, atop this gigantic pork barrel for the incumbent government and financed by the taxpayers of Canada. To administer this new regime — the Liberals favourite plaything — is an even larger bureaucracy.

The cost of reimbursing expenses incurred by political parties in an election will double under Bill C-24 to about \$80 million from \$40 million. The Liberals will receive the largest share of the annual subsidy: \$9.2 million per year, beginning in the year 2004. This exceeds by almost \$3 million what they collected from business in 2001.

What will be the effect of this bill on party politics in Canada? Over the last 10 to 15 years, we have seen an unprecedented growth in both the number and influence of special interest groups. While special interest groups have always been part of politics, there was a time when both the government and political parties knit together the views of interest groups. This was especially true of parties that were national in scope and in their views.

Given the rise in influence of special interest groups, there has now come a time when they fracture of the views of the community, putting their particular interests ahead of the good of the whole.

With political parties financed under Bill C-24 by the state, there will less and less incentive for parties to reach out to these groups to blend together their views so that the good of the whole country triumphs over some narrow, self-serving interest.

Bill C-24 would also give incentive to special interest groups to mobilize to gain party status if they can accumulate 2 per cent of the vote cast nationally, or 5 per cent of this vote cast in ridings where the party ran a candidate, and they will be eligible for public subsidies.

Public subsidies will also militate against the need for parties to broaden their membership bases. It is no secret that for the past number of years I have been campaigning for the Progressive Conservative Party to try to attract support from Canada's multicultural community. We all know that one method of locking in support is to convince a person to actually donate time and money, especially money, to a political party. Under Bill C-24, that need to reach out is no longer as urgent. The taxpayer will pay.

A study on corporate political contributions in Canada, completed in February for the public policy forum, demonstrated that most corporations feel that it is part of their public duty support the democratic process. However, if Bill C-24

limits them in their direct support, they will seek to influence and support it by other means, such as supporting special interest groups or by direct lobbying. Therefore corporations will spend money on politics, it simply will not be transparent, and certainly not as transparent as it might have been if Bill C-24 had taken another route — a route that emphasized transparency in donations rather than their limitation.

Honourable senators, I would like to conclude my remarks by raising an issue that was not addressed in the debate in committee and in the chamber in the other place, and that is the issue of the constitutionality of Bill C-24. Is Bill C-24 Charter proof?

Professor Errol Mendes, who edits the *National Journal of Constitutional Law*, by far our country's leading constitutional law journal, has raised this issue and I trust it will still be looked at carefully before this matter leaves the Senate. He believes this bill establishes systemic barriers to equality for new political parties as they try to access the political system.

He argues that Bill C-24, by its subsidy scheme, violates section 15 of the Charter, as this section is designed to protect minorities who have traditionally been blocked out of the political system. It has also been argued that, as the bill does not establish a level playing field for political parties, the courts may also set it aside. This is an important area that really has to be explored by this Senate.

The conclusion of the Public Policy Forum paper analyzing this bill and its effects on corporate political contributions was as follows:

"Bill C-24 represents a sweeping redefinition in the relationship of the political process to the state, to economic and social interests within the state, and to citizens themselves."

It has been brought in without any real debate of the impact of this change on our democratic institutions.

There are so many questions that require answers; questions such as: Is the increased reimburse of political parties' electoral expenses an acceptable cost for our democratic system? Should parties be subsidized by the state or should they be required to rely on their own fundraising efforts? Will public funding make parties less sensitive to voters, or will it allow them to carry out their activities without worrying about core financing? What effect will this new system have on party governance? Will the acceptance of state funding affect public attitudes towards political parties? What will be the public's perception of politicians voting to subsidize their own political parties? Will new political parties find it more difficult to become established?

These, honourable senators, are all legitimate questions that should be thoroughly discussed in the Senate. I hope the government will back off from its immediate timetable and allow this Senate to probe deeply into the effect that this bill will have on our democratic system.

Hon. Senators: Hear, hear!

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I want to bring to the attention of colleagues one aspect of the bill that has not been discussed, and I regret that our Standing Senate Committee on Legal and Constitutional Affairs was only given two days to study this complex bill, which has an impact not only on the financing of political parties but on riding associations themselves. I will quote — as I think this is as well stated as I have seen it anywhere — from a paper that has been circulated but not published, by Kenneth Carty, who is a Professor of Political Science at the University of British Columbia. He said:

If the bill becomes law, every party constituency association in the land will have to register with Elections Canada. They will only be able to do so with the permission and approval of their party's leader. And the leader is to have the power to have them deregistered at his or her pleasure.

• (1930)

This will spell the end to local autonomy for individual constituency associations will hardly be able to stand against their leader's wishes. In practice, leaders will rarely need to use these formal powers for everyone will know the costs of open defiance or difference. This change represents an enormous centralization of organizational power in the hands of party leaders. Had these provisions been in place it seems unlikely that Day's Leadership of the Alliance would have been so brief, or Chrétien would have lost control of the Liberal party organization to Martin supporters. It would be a great irony if one of Chrétien's legacies was a system protecting Martin from an internal power takeover.

Reflect on his conclusion:

More centralized parties are not likely to be more successful ones. Canada has one of the lowest rates of party membership and participation among western democracies. Shrinking the opportunity for local members to play an independent part is only likely to drive those numbers even lower. Reducing participation is not the way to engage citizens or build support. Local autonomy has been important to party associations so that they could respond effectively to the peculiarities and political realities of their corner of this diverse country. Greater centralization will only make it harder for local associations to do this. Given a choice between their community and Ottawa, many will opt for home. The result will be more party splits and desertions. If Bill C-24 helps to break the old local autonomy for parliamentary discipline bargain, the prospects for the survival of genuinely national parties will shrivel. We haven't so many that we can afford the chance.

It may be an exaggeration, but it is a warning that there are in this bill provisions that have hardly been studied or touched on, the impact of which we have yet to know because we were not given the opportunity to study them. The only consolation I get is that Senator Oliver's and Senator Joyal's concern about the

constitutionality of this bill will, I hope, be tested. I am convinced that once this act is in force, within the next five years it will be subject to some very major revisions.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, in rising to participate in debate of this bill at third reading, I would first like to draw the attention of honourable senators to the fact that this bill will cost the Canadian taxpayer \$49 million in election years and \$29 million in non-election years, including a \$22 million annual subsidy to political parties. The tab will total some \$134 million over the next four years. This is the magnitude of the cost to Canadian taxpayers.

This is done mostly to replace money the parties now get from their supporters. The annual cost could end up being \$5 million more a year if voter turnout returns to traditional levels.

It seems to me that any fair-minded Canadian will see that this bill is not fair, that the Liberals will get the lion's share of the annual subsidy and that they want to make it harder for other parties to defeat them by making it harder for them to raise money.

In January, the Liberals will get a government cheque for \$9.2 million, \$3.5 more than any other party. The Canadian Alliance will get \$5.7 million; the Progressive Conservative Party will get some \$2.7 million; and the Bloc Québécois will get \$2.4 million from the Canadian taxpayers, paid to a party whose objective is to break up the country. The New Democratic Party will get \$1.9 million.

This bill does not apply, honourable senators, to new parties. In the history of Canadian political parties, there have been changes in the organization of various coalitions to, in effect, create new political parties. It is not clear that this bill will be fair to newly coalesced political groupings in Canada.

Honourable senators, the bill is full of loopholes. It will not clean up election financing; rather, it will drive money underground into trust funds, arm's-length associations, and various political action committees and organizations of that ilk.

The bill only applies to fundraising and spending by parties and their riding associations. It does not cover clubs or other entities that may carry the party name but which run their own show. The Liberals who ran Groupaction could have simply donated their collections to friends of any given person.

I think we have made our case. I think the seventh report has established for us that the bill is badly drafted. We have agreed that there are errors in it; we disagree on the methodology of dealing with only some of the errors. It is my belief that the error on page 31 of the bill, to which the seventh report draws our attention, is more appropriately amended by better wording.

Honourable senators, the old adage that haste makes waste has never been more true than with regard to the reams of errors riddling this bill. In my view, the proper procedure to follow

would be simply to mark it "Return to Sender." The disappearing act performed by the other place is reminiscent of the king himself, Elvis Presley. Therefore, perhaps we could "Address Unknown" as a measure of the disgust of this house.

While it was argued in committee that most of the errors can, fortuitously, be repaired by describing them as mere clerical errors, or parchment errors, it seems to me that allowing shoddy work to be fixed through an administrative process merely encourages future repetitions. This is not the first time we have received a bill with numerous errors, and it undoubtedly will not be the last if we permit this latest comedy of errors to go essentially unremarked.

One way to convey an unmistakable message to the other place is to correct each and every error through amendment. That is a process that may well give them pause to consider the error of their ways in that other place.

Honourable senators, in addition to the error on page 31 referred to in the seventh report, the English text of clause 73(3) on page 104 of the bill reads:

For monetary contributions made in 2004 taxation years but before the day...

To the best of my knowledge, we have not had "2004 taxation years" in Canada quite yet. One might assume as much, since our nation was only formed in 1867.

The French text has it right, however, where it says:

En ce qui concerne les contributions monétaires faites au cours de l'années d'imposition 2004...

Obviously, repairing this error on page 104 of the bill requires an amendment, and it is not simply a clerical error.

• (1940)

MOTION IN AMENDMENT

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): To that end, honourable senators, I move, seconded by the Honourable Senator Rossiter:

That Bill C-24 be not now read a third time but that it be amended in clause 25, in the French version,

(a) on page 31, by replacing line 35 with the following:

"405.3(2)b(i);";

(b) on page 33,

(i) by replacing line 25 with the following:

"(2.1) Par dérogation au sous-alinéa (2)b(i), si deux", and

(ii) by replacing line 41 with the following:

"titre du paragraphe (2.1) à l'association enre-"; and

(c) on page 34,

(i) by replacing line 1 with the following:

"(2.3) Par dérogation au sous-alinéa (2)b(i), si une", and

(ii) by replacing line 15 with the following:

"titre du paragraphe (2.3) au candidat soutenu"; and

That Bill C-24 be further amended in clause 73, in the English version, on page 104, by replacing line 25, with the following:

"the 2004 taxation year but before the day on".

Honourable senators, the latter part of my amendment, which refers to clause 73 at page 104 of the bill in the English version, is a content change that cannot be made by the clerks, but only by amendment. It is a clear error.

I submit that the errors that we have recognized on page 31 of the bill ought to be amended in accordance with my motion in amendment because I am not sure what kind of a change the clerks might make. This, clearly, is my interpretation of how that clause should be read.

Clearly, honourable senators, the amendment process is the principal process for cleaning up bills so that bills state exactly the intent of the legislators.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion in amendment of the Honourable Senator Kinsella?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Will those honourable senators in favour of the motion in amendment please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators opposed to the motion in amendment please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the "nays" have it.

The motion in amendment is lost, on division.

The Hon. the Speaker: Is the Senate ready for the question?

Hon. Senators: Question!

The Hon. the Speaker: It was moved by the Honourable Senator Robichaud, seconded by the Honourable Senator Rompkey, that the bill be read a third time now.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Will those honourable senators in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators opposed to the motion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the "yeas" have it.

Motion agreed to and bill read third time and passed, on division.

STUDY ON STATE OF HEALTH CARE SYSTEM

FINAL REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Kirby, seconded by the Honourable Senator Cook, for the adoption of the third report (final) of the Standing Senate Committee on Social Affairs, Science and Technology, entitled: *The Health of Canadians — The Federal Role, Volume Six: Recommendations for Reform*, tabled in the Senate on October 25, 2002.—(Honourable Senator LeBreton).

Hon. Jane Cordy: Honourable senators, I would thank Senator LeBreton for agreeing to allow me to speak today.

It is my pleasure to rise today to speak on the sixth report of the Standing Senate Committee on Social Affairs, Science and Technology. It has been six months since our report was issued. The Romanow commission report was released a month later. Both reports involved an intense study of the health care system in Canada and set the stage not only for a public dialogue of the health care system by Canadians, but also for action by provincial and federal governments.

Honourable senators, I am a member of the Standing Senate Committee on Social Affairs, Science and Technology. I consider myself fortunate to be a part of this group of outstanding individuals led by our chair, Senator Kirby, and vice-chair, Senator LeBreton. The committee members have a mix of medical expertise, public policy foresight and political experience. It is this

mix of experience and knowledge that has caused this report and, in fact, the entire study to receive high accolades from governments, health care professionals and individual Canadians alike, for the sixth report of the committee, like the five before it, were all supported unanimously by the committee.

Honourable senators, the government's budget made significant investments to address the concerns of Canadians about our health care system. Federal support to health care will increase by \$34.8 billion over the next five years. The 2003 First Ministers' Accord on Health Care Renewal, signed by the federal, provincial and territorial governments, is a commitment to improving the health care system. This accord reflected many of the ideas from our report, and it is an important first step in reforming publicly funded health care in Canada.

There are also a number of critical areas such as dealing with the serious across-the-board shortages of health care professionals that will need further attention from both federal and provincial governments.

Our report, as well as the other studies done over the past two years, played a critical role in these policy debates. As a senator from Nova Scotia, I take special interest, as I know all honourable senators do, in how our work affects my province. Nova Scotia and, indeed, all of Atlantic Canada, has unique health care concerns. On the one hand, we needed to develop a national strategy to stabilize health care in Canada, while, on the other hand, we must address the issues of concern in Atlantic Canada. This report has been able to do just that.

As pointed out in the committee's fourth report, there are presently serious gaps in our health care safety net, particularly with respect to drug coverage and home care. As everyone is well aware, drug prices are the fastest growing component of the health care sector. This means that the ever-growing proportion of health care budgets being consumed by prescription drugs is not a short-term phenomenon. Having said that, prescription drug coverage is most uneven across Canada.

Although Canadians, on average, spend relatively little of their income on prescription drugs, the problems for those who face very high drug expenses can be extremely severe, with some people facing destitution. This, in the committee's view, is not acceptable.

In Canada, 97 per cent of Canadians have some form of drug coverage. This national average does not accurately reflect the coverage found in Atlantic Canada. When you look specifically at Atlantic Canada, the number of people without coverage becomes much larger. In Nova Scotia, 24 per cent of the population has insufficient drug coverage. These people are taking a tremendous risk with their health and, in some cases, their lives, by sacrificing the medical attention they may need.

Our report has addressed this issue by introducing the concept of catastrophic drug care. In this program, the federal government would take over the responsibility for 90 per cent of prescription drug expenses that exceed a certain limit that qualifies them as catastrophic.

To qualify for federal assistance, provinces and territories would have to put in place a program that would ensure that residents of the province or territory would never have to pay out of pocket more than 3 per cent of their family income for prescription drugs.

• (1950)

Honourable senators, in its latest budget, the federal government has allocated \$16 billion over five years, to provinces and territories, for a health reform fund, some of which would be targeted to catastrophic drug coverage. No longer will individuals have to decide whether to sacrifice an essential living expense in order to buy their medicines.

Spending on home care in Canada, both public and private, has increased continuously over the past two decades. In previous volumes, the committee noted that there is no consensus about what services should be included in the definition of home care. Home health care services can cover some acute care, some long-term care, and end-of-life care for those with terminal conditions. In addition to health care, home care can include social support services such as monitoring, homemaking, nutritional counselling and meal preparation. It extends along a wide continuum of care.

Publicly funded home care programs vary greatly across the country in terms of eligibility, scope of coverage and applicable user charges. Although its provision has increased in most provinces in recent years, public spending on home care still represents a small proportion of overall provincial health care budgets.

Our report proposes a national post-acute care system of home care to provide for those people requiring treatment at home following an episode of hospitalization. Under our proposal, this publicly ensured program would cover all home care services from the first date of home care services following hospital discharge and up to three months following. Again, this issue was reflected in the First Ministers' Accord on Health Care Renewal signed in February.

Honourable senators, our committee took a close look at a great resource and a source of strength for our health care system — our teaching hospitals. In Canada, teaching hospitals are part of a greater network of health care facilities that, along with university faculties of medicine and other health-related research and health care institutes, form academic health science centres. These centres provide not only patient care, but also teaching and research. They are much more complex than community hospitals, and they offer the newest and most highly sophisticated services and treat the most difficult, complex cases.

For this reason, the cost of running these centres is much higher than a community hospital. It is the belief of the committee that the federal government is particularly well positioned to sustain our academic health centres across the country through its well-recognized role in financing post-secondary education, funding health research, supporting health care delivery, financing health care technology, and planning human resources and health care.

Finally, honourable senators, I should like to discuss the subject of health human resources. Many of the problems we see in Canada can be attributed to a shortage of health care professionals. A study conducted for the Canadian Nursing Association indicated that Canada would be short 78,000 registered nurses in 2011, and that this shortfall could reach 113,000 by the year 2016. For this reason, our committee recommended that the federal government commit the necessary funds over the next five years to raise the number of nursing school graduates to 12,000 per year.

A national strategy is needed in order to make Canada self-sufficient in health human resources. In the short term, more money is needed to boost enrolment in educational and training programs for all health care professionals. Our committee recommended that the federal government do its share by buying places at educational institutions so that more doctors, nurses and other health care professionals can be educated and trained. The committee recommended that the federal government contribute \$160 million per year, starting immediately, so that Canadian medical schools can enrol 2,500 first-year students by the year 2005.

Honourable senators, no issue in Canada is more important to Canadians than health care. The Standing Senate Committee on Social Affairs, Science and Technology is continuing its study on health care by now focusing on mental health and mental illness. It was the decision of the committee that this segment of health was so neglected that it needed its own stand-alone report. As we hear evidence from witnesses in our study on mental health and mental illness in Canada, we hear over and over again the need for a national action plan.

Honourable senators, I believe that our Senate committee can help to meet the challenges related to mental health and mental illness, and I look forward to continuing another phase of our study on health care in Canada.

On motion of Senator LeBreton, debate adjourned.

THE BUDGET 2003

INQUIRY

On the Order:

Resuming debate on the inquiry of the Honourable Senator Lynch-Staunton calling the attention of the Senate to the Budget presented by the Minister of Finance in the House of Commons on February 18, 2003.—(*Honourable Senator Robertson*).

Hon. Mira Spivak: Honourable senators, I rise on behalf of Senator Robertson to speak to the 2003 budget, which perhaps is only a dim memory in some people's minds.

Budget 2003, in my view, strives for integrity by facing old Red Book promises, and in some cases by promising to give Canadians what was pledged to voters one decade ago: promises such as funding for national parks, for child care, for curbing climate change and a few other specific budget measures.

The biggest new spending measure is on health care. Between 1993 and 2001, the former Finance Minister reduced transfer payments to the provinces by some \$25 billion, but health care funding will be restored if the next Prime Minister honours the future commitments of this budget. We would then see some \$34.8 billion devoted to health care over the next five years, which, incidentally, accounting for inflation, could equal the \$25 billion that was removed.

Some long-term big-ticket promises are being addressed in this budget. Let me quote from "Creating Opportunity: the Liberal Plan for Canada of 1993," better known as Red Book I. A Liberal government will assist provincial, regional and municipal governments to finance new or renewed municipal sewage and water treatment infrastructure. A Liberal government will work with the provincial and urban governments to improve energy efficiency and increase the use of renewable energies with the aim of cutting carbon dioxide emissions by 20 per cent from 1988 levels by the year 2005.

In 2005, however, the greenhouse gas emissions will not be 20 per cent less than they were 15 years ago; they will be 20 per cent more. The real needs of municipalities were to renew water and sewage systems, to maintain recycling programs, to collect methane from landfills and to provide public transit as a real alternative to cars. Those needs, which the government recognized ten years ago, did not vanish when deficit reduction became the priority. They still exist in times of balanced budgets and surpluses and, yet Budget 2003 does very little to recognize them.

I should like to mention another item from the not-too-distant past, when the government promised to maintain the commitment to complete the national parks system by 2000. We all know that the Prime Minister has a soft spot for national parks. He has personally raised the expectations of parks advocates over and over again. The pledge of funds to parks in this budget is a tribute to his integrity to finally begin to do what was promised 10 years ago. Less than admirable, however, is the wording in the budget speech, which suggests that the government is proud that this budget provides funding for the completion of Canada's national parks system, including the creation of ten new national parks and five new marine conservation areas.

When you turn to the budget plan, you find that the amount is \$74 million over two years for new parks and to restore existing parks. It is less than 15 per cent of the estimated cost of completing the system. It is also less than one-quarter the amount that the panel on ecological integrity said is needed to maintain our existing parks.

The bald exaggeration that this budget provides the money to do the job is the kind of rhetoric that invites cynicism.

• (2000)

The decade-old promise on child care and its Budget 2003 counterpart also deserves attention. If we understand what went wrong last time, we may not be condemned to repeat it; or at the very least, we can see it coming. Red Book One promised

\$720 million over three years, aimed at providing up to 150,000 additional quality child care spaces. It was a modest promise made in the backdrop of the previous government's effort under Brian Mulroney, to invest \$5.4 billion in child care over a seven-year period, a program that died on the Order Paper.

The new Liberal promise also carried two provisos: First, it required the agreement of the provinces; second, it tied the creation of 50,000 spaces a year to 3 per cent economic growth in the previous year. If implemented, it would have led to a 41 per cent increase in the number of child care spaces beyond the number available in 1993.

The 1994 Budget included the first instalments on that promise, \$120 million for 1995-96 and \$240 million for 1996-97. However, the following year marked a dramatic turn in the government's social policy and in the Red Book commitment to child care. The 1995 Budget collapsed separate payments to the provinces, including the dedicated Child Care Transfer into the Canada Health and Social Transfer, and it cut the transfer amounts by some \$7 billion. Still, then Minister Lloyd Axworthy announced an offer in 1995 to the provinces, of up to \$630 million to cost share new child care spaces, and \$72 million for Aboriginal childcare programs, and \$18 million for research. It then met the magic number of \$720 million that was promised in the Red Book.

No province or territory rejected the proposal outright, but, within days, government prorogued Parliament and Mr. Axworthy was no longer the minister. The new minister, Doug Young, blamed insufficient interest among the provinces.

A careful analysis of the events, however, points to a combination of factors: the government's fiscal capacity; opposition within caucus on ideological grounds; difficult federal-provincial relations; and, perhaps, greatest of all, the lack of political will and leadership once Mr. Axworthy left the portfolio.

Budget 2003 now tells us that the government has again been working with provincial and territorial partners to develop a strategy to improve access to affordable, quality, regulated early learning and child care services. Pending the outcome of these discussions, the government will provide \$900 million over five years, including \$100 million in the next two years, to substantially increase the number of spaces.

One can only hope that history will not repeat itself, although, like the adage, it is a triumph of hope over experience.

On climate change funding, the allocation of \$2 billion over five years does sound promising. Even the Minister of the Environment, however, has waived a caution flag. He is concerned that pet projects and hobby horses of various ministers will soak up those funds, and the impact on climate change will be marginal.

The Department of Finance now says that funding for climate change in fiscal year 2002-03 will be \$237 million, none of which includes the \$2 billion announced in Budget 2003 or any amount that the foundations disburse. Next year, the total will jump to \$734 million, largely due to new money going to foundations. The following year, the total will drop to \$338 million; and after that, who knows?

I would like to see the government do something that the Federation of Canadian Municipalities has requested year after year. Green budget coalitions have also called for it; the Canadian Urban Transit Association asked for it last year. This year, the National Round Table on the Environment and Economy added its voice. It is a simple measure that would remove the tax payable on employer-provided transit passes. It would level the playing field with employer-provided parking. It would cost an estimated \$200 per new transit user per year. To get 100,000 people out of their cars and onto transit systems would cost the government just \$20 million — a far cry from the record \$9.1 billion that the U.S. 2001 Budget pledged, to reduce road congestion.

The national round table also proposed half a dozen other tax measures to help us meet our Kyoto target: a GST rebate for energy-efficient renovations; an increase in the GST rebate for R2000 certified homes; and an increase in the GST rebate for municipal green infrastructure purchases, among others. None of these Kyoto-friendly measures have found their way into the budget.

Is this really a people's budget? It is, at best, some people's budget — a budget that promises low-income families some relief and gives high-income earners a break by allowing them to set aside more in their pension and RRSP funds. For the working middle class, for the average wage earner, there is a small deduction in employment insurance premiums that translates roughly to \$60 in savings; yet, government revenue from employment insurance premiums exceeded revenue from corporate income tax several months last year. Between April 2002 and January 2003, corporate taxes stood at \$15.4 billion, a 16.6 per cent decrease over the same period in the previous year; employment insurance premiums stood at \$14.5 billion, a 0.7 per cent increase.

It takes remembering and fact-checking the campaign promises and the budget to understand where we are and where we are not after a decade of rule by this government. It takes more work than can be expected of average citizens who must attend to earning a living, raising families, caring for the sick and elderly and a dozen other facts of life.

However, Canadians know intuitively that many things went wrong in the past 10 years in health care, in other social programs, in caring for the environment, and in the combination of taxes they must pay compared to the taxes paid by corporations and those with high incomes. They intuit that a small minority is better off than they were 10 years ago — healthier, wealthier, more productive and happier — but that is not the case for the vast majority of Canadians.

One thing the government never promised voters was to reduce support for Canadian television and film production, while giving even more incentives to U.S. producers to work in Canada. Yet, this is what the budget was about to do, by cutting \$45 million from the Canadian Television Fund while increasing the production services' tax credit available to companies contracting with non-resident owners of productions.

Canadian television producers, writers and actors almost immediately warned of job losses in the thousands, talent fleeing to the United States, insufficient programs to meet Canadian content requirements and more American programming than ever. The fund rejected such programs as *This Hour Has 22 Minutes*, *The Red Green Show* and *The Eleventh Hour*. Then, this month, \$12.5 million was restored, but only for this year and only as an advance on next year's budget.

The television and film measures aside, I credit the government, and in particular the Prime Minister, for at last allocating money to the big promises held out to voters a decade ago. It is a measure of the Prime Minister's integrity, that he does not want to leave office with a trail of empty promises. His successor, however, will have to have the same commitment and the same priorities for a very long time, for these promises to be fulfilled.

My sincere hope is that we will see a continuing commitment to health care, child care, climate change and parks. I hope that the belated promises in this budget will be honourably and wisely kept.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, at the time that we were voting on the amendment to Bill C-28, for some reason, I thought that, as soon as the amendment was disposed of, we would go back to the point of order. I only realized, too late, that the instruction was to dispose of everything to do with Bill C-28. I realized my error and put it down to what someone might have put in my birthday cake, as I usually do not go off the track that easily. I had some remarks to make to the main motion, to Bill C-28 itself, but they are quite appropriate to this item. Since this is a budget item, they will fit in here.

• (2010)

The only proviso is that, if I speak last, in effect the inquiry will be closed if no one else wishes to speak to it. If I may, I will say what I have to say and, hopefully, not repeat my mistake.

During debate on the budget inquiry, which is before us, I had occasion to point out an inherent flaw in the federal budget process, which is simply that it is an authority vested in the executive over the which the legislative has little say.

This may have been valid at the time the House of Commons was still the tool of the monarch, but surely it has no place in today's society. That the other place acquiesces so limply to abdicate its basic reason for being — the guardian of the purse — is truly shameful. It only reveals a self-imposed impotence, which demeans all of Parliament. However, any serious attempt to modify the government's budgetary intentions is treated as cheeky interference.

Once the budget is read, it goes into effect immediately, unless otherwise provided, and the Budget Implementation Act, such as the one which was the subject of the bill on which we voted earlier, is a sort of legal afterthought.

The title of this bill is a misnomer, for how can Parliament implement what is already being implemented? It should be titled "Budget Rubber-Stamping Act" for that is what Parliament is asked to do.

I have on many occasions pointed to the American federal system, particularly the separation of powers, which does not allow the executive to run roughshod over the legislative, as is the case in our country. The experience of Mr. Bush's last budget is a telling example of this. In January 2003, the president proposed — and I said proposed, not announced — a budget which called for a tax cut amounting to some \$750 billion over 10 years. Both the house and the Senate disagreed with the president and came out with separate proposals, the first calling for a tax cut of U.S. \$550 billion, the second for U.S. \$350 billion.

A conference between the two houses led to a compromise bill, which was signed by the president late last month, calling for a reduction in revenues of U.S. \$350 billion through 2013, if sunset provisions during that period are respected, or at least U.S. \$870 billion, if the reductions become permanent. These figures are estimates that may turn out to be way off.

The point, however, is not to take a position on the budget policy of the American government, but to emphasize that it is not determined by a select group of individuals, but by the elected representatives of both houses working with the administration to arrive at a result reasonably acceptable to all. This involves a lengthy, cumbersome procedure, replete with trade-offs, but at least the procedure is open and transparent.

In Canada, the budget goes into effect as soon as the Minister of Finance rises to deliver it. The only change made, except when there is a public outcry, as was the case in the infamous MacEachen and Gordon budgets, is by the executive itself.

Shortly after this year's budget was made public, the Prime Minister expressed surprise that additional financing for Olympic athletes would be dependent on Vancouver being selected as the site of the Olympic games of 2010. He unilaterally reversed the decision.

Then we had the outrage exhibited by the Minister of Heritage towards the Minister of Finance at a reduction in the federal contribution to the Canadian Television Fund. This resulted in an embarrassing public exchange between the two, which was temporarily suspended last week when both ministers jointly announced an increase in the federal contribution to the fund.

The announcement was made in a press release, not in the House of Commons. Note the wording of the finance minister's announcement: "After hearing the concerns of the industry, I am advancing the Government's financial assistance." The House, completely ignored, registered nary a peep.

This may be explained by the disgraceful reaction of the government to the decision of the other place's Transport Committee to reduce Via Rail's funding by \$9 million. The government house leader had a fit, arguing that the committee had acted highly irregularly and raised points of order, which the Speaker totally rejected. The Minister of Transport then warned those members voting for the reduction that jobs could be lost in their ridings. The reduction was reinstated when the Main Estimates were approved last Thursday.

Is it any wonder, shameful as it is, that elected members pay but passing interest to government expenditures when any serious attempt to exercise control over them is met not with reasoned argument, but with arrogant outrage?

The government did remove \$72 million for the gun registry program from the Supplementary Estimates last fall, but only because the Auditor General's report was so scathing that it felt that the time was not very propitious to put in more good money after bad. The Minister of Justice did not appear too disturbed, so no doubt, the temporary suspension of funds made little, if any, difference.

I could give other examples of Parliament being but a tool of the government in budgetary matters, but I hope my point has been made. Better an active participation, messy and prolonged that it might be, than a negligible one imposed and controlled by a favoured few.

If my reading of the bill is correct, it does not reflect the budget it is supposed to implement. In his budget speech, on February 18, of this year, the Minister of Finance was very forthright about proposed expenditures when he said, "This includes \$250 million for Sustainable Development Technology Canada to encourage the development of greenhouse gas reducing technologies." That is found on page 13 of the budget speech. On the strength of that promise, the foundation issued a news release, the following day, welcoming the additional money.

Let me read to you section 34 of Bill C-28 which states:

From and out of the Consolidated Revenue Fund there may —

Note the word "may," not shall —

— on the requisition of the Minister of the Environment and the Minister of Natural Resources be paid and applied a sum not exceeding two hundred and fifty million dollars for payment to the Canada Foundation for Sustainable Development Technology for its use.

The minister stated at page 10, in the same budget speech, that, "We are increasing our investment in the Canada Foundation for Innovation by \$500 million, specifically for the infrastructure needs of Canada's research hospitals."

However, section 39 of the bill before us today is structured in permissive terms. It states:

From and out of the Consolidated Revenue Fund there may, on the requisition of the Minister of Industry, be paid and applied a sum not exceeding five hundred million dollars for payment to the Canada Foundation for Innovation for its use.

Let me give you one last example. In the budget speech, page 6, the minister spoke of a \$2.5 billion immediate transfer to the provinces and territories to deal with existing pressures. The corresponding item in the bill states the minister may make direct payments in an aggregate amount of not more than \$2.5 billion to a trust. The question is obvious. If the intent and promises made in the budget are clear, why is not implementing legislation equally clear?

I could not be at the finance committee where this should have been brought up. Previous implementation bills have used the same wording. It should trouble every parliamentarian to know that budget implementation is not an instruction to the executive but, if the theory of plain meaning applies, permission to implement at ministerial discretion.

While the Auditor General has denounced the practice of pouring billions of dollars into arm's length entities accountable to no one but themselves, the government continues to ignore her concerns. What more glaring example than Canada Health Infoway Inc.? Canada Health Infoway is in line for another \$600 million, at the discretion of the Minister of Health.

• (2020)

According to Budget 2003, this amount will be paid to the corporation in fiscal year 2002-03, but it will somehow be credited at a rate of \$200 million per year for the three fiscal years of 2003-2004 through 2005-2006. I am curious, as we all should be, as to the mechanism by which this accounting marvel will be achieved and whether it has the imprimatur of the Auditor General.

Continuing on the subject of the supplementary funding to this nominally independent company, the Government of Canada has previously provided it with \$500 million. In reviewing its accountability to Parliament, the Auditor General noted that it does not report expected performance to Parliament. It does not report performance results to Parliament. It does not report audited statements to Parliament. It does not report evaluation results to Parliament. There is no ministerial oversight — no strategic monitor, no ministerial direction and action, no departmental audit and evaluation and no termination agreement allowing funds remaining on windup to be returned to the taxpayer.

If the minister decides to proceed with a second tranche contained in Bill C-28, Parliament will have given Canada Health Infoway Inc. a total of \$1.1 billion, more money in three years than has been sunk into the Firearms Control Program over a period of seven years. However, no matter how poorly this program is working, at least there is the appearance of activity, actual visible expenditures and accountability of sorts to Parliament.

Canada Health Infoway, on the other hand, started out making money when the interest on the grant previously provided exceeded expenditures incurred during the course of the first year of operation. Although it is finally spending some of the money, this situation leads me to a range of questions, which I think you will have no trouble anticipating.

Why is the government adding to this existing pile of capital? Does the government have any idea to what the final total cost of the Canada Health Infoway program will be? Is this another black hole for the taxpayer's money, even deeper than the Firearms Control Program and with even less accountability?

The Auditor General could not have been clearer when she said, "The creation and funding of foundations should not be driven by a desire to achieve a particular accounting result." What assurance do we have that these extravagant additional grants to bodies that are still holding hundreds and hundreds of millions of unspent taxpayer's dollars are not simply to achieve a particular accounting result?

Honourable senators, a budgetary process in Canada as it now stands allows this kind of flim-flam to be repeated year after year without barely the pretence of an effective review. In the United States, the budgetary process at least offers realistic opportunities for legislators to intervene and, in many cases, to make sweeping changes. I do not offer the comparison by way of suggesting that the U.S. system is perfect, but it does provide a much greater element of transparency and accountability than that currently in place in this country.

While the budgetary proposal of the president of the United States was greatly changed by the House of Representatives and Senate working together, the token efforts that the modest changes proposed in the other place during the current Canadian process were ruthlessly squashed. The fact that this happened provides ample reason for the view that Parliament is no longer the guardian and keeper of the public purse, but is rather a simple rubber stamp for massive, unchecked withdrawals.

Honourable senators, our system needs to be overhauled. There are worse alternatives, but there are also better. Surely our ingenuity can devise something superior to the process that led up to and is now ending with the woefully misnamed Budget Implementation Act.

[Translation]

The Hon. the Speaker pro tempore: Honourable senators, I advise the honourable senators that time for debate on this matter has now expired.

UKRAINIAN FAMINE/GENOCIDE

MOTION REQUESTING GOVERNMENT RECOGNITION ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Andreychuk, seconded by the Honourable Senator Stratton:

That:

this House calls upon the Government of Canada:

(a) to recognize the Ukrainian Famine/Genocide of 1932-33 and to condemn any attempt to deny or distort this historical truth as being anything less than a genocide;

(b) to designate the fourth Saturday in November of every year throughout Canada as a day of remembrance of the more than seven million Ukrainians who fell victim to the Ukrainian Famine/Genocide 1932-33; and

(c) to call on all Canadians, particularly historians, educators and parliamentarians, to include the true facts of the Ukrainian Famine/Genocide of 1932-33 in the records of Canada and in future educational material.

GIVEN THAT the Genocide of Ukrainians (now commonly referred to as the Ukrainian Famine/Genocide of 1932-33 and referred to as such in this Motion) engineered and executed by the Soviet regime under Stalin to destroy all opposition to its imperialist policies, caused the deaths of over seven million Ukrainians in 1932 and 1933;

THAT on November 26, 1998, the President of Ukraine issued a Presidential Decree establishing that the fourth Saturday in November be a National Day of Remembrance for the victims of this mass atrocity;

THAT the fourth Saturday in November has been recognized by Ukrainian communities throughout the world as a day to remember the victims of the Ukrainian Famine/Genocide of 1932-33 and to promote the fundamental freedoms of a democratic society;

THAT it is recognized that information about the Ukrainian Famine/Genocide of 1932-33 was suppressed, distorted, or wiped out by Soviet authorities;

THAT it is only now that some proper and accurate information is emerging from the former Soviet Union about the Ukrainian Famine/Genocide of 1932-33;

THAT many survivors of the Ukrainian Famine/Genocide of 1932-33 have immigrated to Canada and contributed to its positive development;

THAT Canada condemns all war crimes, crimes against humanity and genocides;

AND THAT Canadians cherish and defend human rights, and value the diversity and multicultural nature of Canadian society.—(*Honourable Senator Robichaud, P.C.*).

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I proposed adjournment of this debate in order to allow anyone who wanted to speak to this motion to

have a chance to do so. No one except Senator Corbin has expressed a desire to speak. Therefore, I believe the house is ready for the question.

The Hon. the Speaker pro tempore: Are the honourable senators ready for the question?

Some Hon. Senators: Yes.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

[*English*]

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED TO STUDY PUBLIC HEALTH GOVERNANCE AND INFRASTRUCTURE

On the Order:

Resuming debate on the motion of the Honourable Senator Kirby, seconded by the Honourable Senator Pêpin:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and report on the infrastructure and governance of the public health system in Canada, as well as on Canada's ability to respond to public health emergencies arising from outbreaks of infectious disease. In particular, the Committee shall be authorized to examine and report on:

- the state and governance of the public health infrastructure in Canada;
- the roles and responsibilities of, and the coordination among, the various levels of government responsible for public health;
- the monitoring, surveillance and scientific testing capacity of existing agencies;
- the globalization of public health;
- the adequacy of funding and resources for public health infrastructure in Canada;
- the performance of public health infrastructure in selected countries;
- the feasibility of establishing a national public health legislation or agency as a means for better coordination and integration and improved emergency responsiveness;
- the Naylor Advisory Group Report and recommendations.

That the Committee submit its report no later than March 31, 2004.—(*Honourable Senator LeBreton*).

Hon. Marjory LeBreton: Honourable senators, I will speak briefly on this motion that was put forward by my colleague, Senator Kirby. It was adjourned in my name when I was absent, due to illness. When you watch and hear me, you may think that, perhaps, I should still be absent due to illness.

I wanted honourable senators to know that the Standing Senate Committee on Social Affairs, Science and Technology looked at this possibility. We submitted it to the full committee.

I fully support the motion for our committee to conduct a short study on public health emergencies in view of what has been happening in Canada in the last six or seven months. The committee is in full agreement. It is incumbent upon us to take a few days to look at this important issue from a national perspective.

Honourable senators, I would ask that this motion be adopted.

Motion agreed to.

[*Translation*]

AMERICA DAY IN CANADA

MOTION ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Kirby:

That the Senate urge the Government of Canada to establish September 11 of this and every year hereafter as a commemorative day throughout Canada, to be known as "America Day in Canada."—(*Honourable Senator Corbin*).

Hon. Eymard G. Corbin: Honourable senators, Senator Grafstein gave his support for the following motion which I will submit immediately. I would ask the pages to give a copy to the leaders on both sides of the House. I will formally put forward the motion a little later.

Senator Grafstein's motion has to do with a commemorative day to be known as America Day in Canada. Some honourable senators have already spoken to this controversial issue. Senator Bryden opposes the motion, while Senators Buchanan and Lawson support it with great enthusiasm. I know the idea is controversial.

• (2030)

My approach to all of this is not necessarily one of support or opposition. For some time now, we have had many proposals referred to us by the House of Commons or proposals introduced in the Senate.

For instance, only a few minutes ago, we approved a motion on the Ukrainians. No one will speak against the motion. Today, I

believe we approved another motion to commemorate the veterans of the Merchant Navy of Canada.

A little while ago, we passed Senator Comeau's bill on the Acadians, which follows on Senator Losier-Cool's motion of last year. The list goes on.

I feel there is no rhyme nor reason to any of this, no protocol, no priority, no rule. There are overlaps. I asked the Library of Parliament to do a search back to 1989, if memory serves. They prepared a document that is a partial catalogue of all sorts of commemorative days. I shall not comment on the list, but there are enough of these days to suit all tastes and trends. Of course, some of them are indisputable.

However, there are no rules. The Historic Sites and Monuments Board of Canada, responsible for commemorating sites, buildings and people of historical significance to Canada, has developed a protocol that could, I believe, be useful to parliamentarians.

The motion I will move shortly, seconded by Senator Grafstein — I spoke to him yesterday and he asked me to inform you that he seconds this motion, which I shall formally move — reads as follows:

MOTION IN AMENDMENT

Hon. Eymard G. Corbin: I move, seconded by Senator Ferretti Barth:

That the motion be amended by deleting all the words after the word "That" and substituting the following thereof:

"the question of the Senate urging the Government of Canada to establish commemorative days throughout Canada, including the proposal for establishing "America Day in Canada", be referred to the Standing Senate Committee on Legal and Constitutional Affairs; and

That the Committee report no later than December 15, 2003."

The Hon. the Speaker *pro tempore*: Honourable senators, are you ready for the question?

Some Hon. Senators: Yes.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion in amendment?

Senator Corbin: Honourable senators, I would like to explain why I propose that the motion be referred to the Standing Senate Committee on Legal and Constitutional Affairs. That committee has already begun studying proposals for commemorative days.

It sometimes happens that the House rushes to adopt them, without investigation and without sending them to committee. The Standing Senate Committee on Legal and Constitutional Affairs has begun a thorough study of this sort of thing. I believe it would be appropriate to refer the matter to the committee for study.

The Hon. the Speaker *pro tempore*: Honourable senators, are you ready to adopt the motion in amendment?

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, in order to ensure that everything is in order, the Hon. the Speaker *pro tempore* should put the question to honourable senators.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion as amended?

Hon. Senators: Agreed.

Motion as amended agreed to.

[English]

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

MOTION TO AUTHORIZE COMMITTEE TO MEET DURING ADJOURNMENT OF THE SENATE— DEBATE ADJOURNED

Leave having been given to revert to Motion No. 137:

On the Order:

Resuming debate on the motion of the Honourable Senator Banks, seconded by the Honourable Senator Moore:

That the Standing Senate Committee on Energy, the Environment and Natural Resources be empowered, in accordance with rule 95(3)(a), to sit during the traditional summer adjournment of 2003, even though the Senate may then be adjourned for a period exceeding one week, until such time as the Senate is ordered to return.—(*Honourable Senator Kinsella*).

Hon. Mira Spivak: Honourable senators, in his absence, Senator Banks has asked me to address this motion and to give a few more details. He is requesting, and the Standing Senate Committee on Energy, the Environment and Natural Resources has agreed with this request, to sit during the summer for one meeting of two days' duration. The meeting would only take place on days during which sitting members of the committee would be available so as to ensure quorum and that there would be members of both sides present. They would not seek replacement members. The purpose of the meeting, should it take place, would be to consider the progress which will at that time have been made in the drafting of a report so as to be able to report sooner than later to the Senate.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, that is like a wish list, and no doubt well intended, but it is not in the motion. All we have before us is a motion, and the motion is open-ended. Some of us believe that it needs to be tightened up and specific dates mentioned. All senators are entitled to go to the committee meetings, not just the members. It could be that what will be studied in this meeting will be limited to only the members, but that should not be a

conclusion drawn automatically. Notices have to be sent out, and all senators must be made aware of them. Also, as Senator Bacon has mentioned and others have repeated, think of the staff.

• (2040)

They have planned well-deserved holidays and we cannot interrupt them. Unless the motion itself were to be amended to specify the dates, I will not support it.

Senator Spivak: I regret that Senator Banks is not here. I have no authority. I cannot tell you what the exact dates will be. I know the discussion has been that it would be the week before the Senate resumes. However, I cannot give you any further information.

[Translation]

Hon. Lise Bacon: Honourable senators, if memory serves, when Senator Banks brought this motion forward, Senator Lynch-Staunton asked him to give us the exact dates. That is what we are waiting for before agreeing to it.

On motion of Senator Bacon, debate adjourned.

[English]

FOREIGN AFFAIRS

MOTION TO REFER 2002 BERLIN RESOLUTION OF ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPEAN PARLIAMENTARY ASSEMBLY TO COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion, as modified, of the Honourable Senator Grafstein, seconded by the Honourable Senator Joyal, P.C.:

That the following resolution, encapsulating the 2002 Berlin OSCE (PA) Resolution, be referred to the Standing Senate Committee on Human Rights for consideration and report before June 30, 2003:

WHEREAS Canada is a founding member State of the Organization for Security and Economic Co-operation in Europe (OSCE) and the 1975 Helsinki Accords;

WHEREAS all the participating member States to the Helsinki Accords affirmed respect for the right of persons belonging to national minorities to equality before the law and the full opportunity for the enjoyment of human rights and fundamental freedoms and further that the participating member States recognized that such respect was an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and co-operation between themselves and among all member States;

WHEREAS the OSCE condemned anti-Semitism in the 1990 Copenhagen Concluding Document and undertook to take effective measures to protect individuals from anti-Semitic violence;

WHEREAS the 1996 Lisbon Concluding Document of the OSCE called for improved implementation of all commitments in the human dimension, in particular with respect to human rights and fundamental freedoms and urged participating member States to address the acute problem of anti-Semitism;

WHEREAS the 1999 Charter for European Security committed Canada and other participating members States to counter violations of human rights and fundamental freedoms, including freedom of thought, conscience, religion or belief and manifestations of intolerance, aggressive nationalism, racism, chauvinism, xenophobia and anti-Semitism;

WHEREAS on July 8, 2002, at its Parliamentary Assembly held at the Reichstag in Berlin, Germany, the OSCE passed a unanimous resolution, as appended, condemning the current anti-Semitic violence throughout the OSCE space;

WHEREAS the 2002 Berlin Resolution urged all member States to make public statements recognizing violence against Jews and Jewish cultural properties as anti-Semitic and to issue strong, public declarations condemning the depredations;

WHEREAS the 2002 Berlin Resolution called on all participating member States to combat anti-Semitism by ensuring aggressive law enforcement by local and national authorities;

WHEREAS the 2002 Berlin Resolution urged participating members States to bolster the importance of combating anti-Semitism by exploring effective measures to prevent anti-Semitism and by ensuring that laws, regulations, practices and policies conform with relevant OSCE commitments on anti-Semitism;

WHEREAS the 2002 Berlin Resolution also encouraged all delegates to the Parliamentary Assembly to vocally and unconditionally condemn manifestations of anti-Semitic violence in their respective countries;

WHEREAS the alarming rise in anti-Semitic incidents and violence has been documented in Canada, as well as Europe and worldwide.

Appendix

RESOLUTION ON ANTI-SEMITIC VIOLENCE IN THE OSCE REGION

Berlin, 6 - 10 July 2002

1. Recalling that the OSCE was among those organizations which publicly achieved international condemnation of anti-Semitism through the crafting of the 1990 Copenhagen Concluding Document;

2. Noting that all participating States, as stated in the Copenhagen Concluding Document, commit to "unequivocally condemn" anti-Semitism and take effective measures to protect individuals from anti-Semitic violence;

3. Remembering the 1996 Lisbon Concluding Document, which highlights the OSCE's "comprehensive approach" to security, calls for "improvement in the implementation of all commitments in the human dimension, in particular with respect to human rights and fundamental freedoms", and urges participating States to address "acute problems", such as anti-Semitism;

4. Reaffirming the 1999 Charter for European Security, committing participating States to "counter such threats to security as violations of human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief and manifestations of intolerance, aggressive nationalism, racism, chauvinism, xenophobia and anti-Semitism";

5. Recognizing that the scourge of anti-Semitism is not unique to any one country, and calls for steadfast perseverance by all participating States;

The OSCE Parliamentary Assembly:

6. Unequivocally condemns the alarming escalation of anti-Semitic violence throughout the OSCE region;

7. Voices deep concern over the recent escalation in anti-Semitic violence, as individuals of the Judaic faith and Jewish cultural properties have suffered attacks in many OSCE participating States;

8. Urges those States which undertake to return confiscated properties to rightful owners, or to provide alternative compensation to such owners, to ensure that their property restitution and compensation programmes are implemented in a non-discriminatory manner and according to the rule of law;

9. Recognizes the commendable efforts of many post-communist States to redress injustices inflicted by previous regimes based on religious heritage, considering that the interests of justice dictate that more work remains to be done in this regard, particularly with regard to individual and community property restitution compensation;

10. Recognizes the danger of anti-Semitic violence to European security, especially in light of the trend of increasing violence and attacks regions wide;

11. Declares that violence against Jews and other manifestations of intolerance will never be justified by international developments or political issues, and that it obstructs democracy, pluralism, and peace;

12. Urges all States to make public statements recognizing violence against Jews and Jewish cultural properties as anti-Semitic, as well as to issue strong, public declarations condemning the depredations;
13. Calls upon participating States to ensure aggressive law enforcement by local and national authorities, including thorough investigation of anti-Semitic criminal acts, apprehension of perpetrators, initiation of appropriate criminal prosecutions and judicial proceedings;
14. Urges participating States to bolster the importance of combating anti-Semitism by holding a follow-up seminar or human dimension meeting that explores effective measures to prevent anti-Semitism, and to ensure that their laws, regulations, practices and policies conform with relevant OSCE commitments on anti-Semitism; and
15. Encourages all delegates to the Parliamentary Assembly to vocally and unconditionally condemn manifestations of anti-Semitic violence in their respective countries and at all regional and international forums.—(*Honourable Senator Prud'homme, P.C.*).

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I had spoken to this item some time ago. I was asked by Senator Grafstein to bring to the attention of senators that the date in the resolution is "before June 30, 2003." If honourable senators were agreeable, I would ask to amend that date to December 31, 2003. The matter would then, content-wise, be meaningfully before us.

It would stand adjourned in the name of Senator Prud'homme.

On behalf of Senator Grafstein, I would ask for unanimous consent to amend that date from June 30, 2003, to December 31, 2003.

The Hon. the Speaker (*pro tempore*): Is leave granted, honour senators, to amend the motion?

Hon. Senators: Agreed.

On motion of Senator Kinsella, for Senator Prud'homme, debate adjourned.

UNIVERSITY RESEARCH FUNDING FROM FEDERAL SOURCES

INQUIRY—DEBATE ADJOURNED

Hon. Wilfred P. Moore rose, pursuant to notice of June 5, 2003:

That he will call the attention of the Senate to the matter of research funding in Canadian universities from federal sources.

He said: Honourable senators, it is my distinct pleasure to rise today to speak to the inquiry that stands in my name by way of which I will make a long-delayed response to the Speech from the Throne.

I would be remiss if I did not pause to thank senators on both sides of the chamber for their kindnesses and great concern expressed to me during my two rounds of surgery and convalescence over the past eight months. Your cards and messages were a great comfort to my family and to me. I want to express my sincere appreciation to my seatmate, Senator Kroft, for keeping me in the loop during my absence.

Over the past year, I have been watching with great interest the tremendous amount and high quality of work being done in this place. It is my firm belief that this body has never been so relevant and vibrant in terms of its contribution to the public good. It is with this in mind that I have returned, ready to add my efforts to yours, my colleagues. It is good to be back.

Today, I should like to focus on one aspect of the Speech from the Throne — the role the federal government would like to play in post-secondary education. One important message contained in the speech is that the federal government plans to:

...invest in access to our universities and in excellence in university research because Canada's youth need and deserve the best education possible, and Canada needs universities that produce the best knowledge and the best graduates.

Thus, there exists an emphasis on promoting a knowledge-based economy founded in research. This research will be conducted in our post-secondary institutions, for the most part. I believe that is a noble goal. Indeed, the promotion of education in our country is something that should occur every day in all aspects of our lives.

How do we intend to make this a reality? According to the Speech from the Throne, the federal government will invest in our universities by increasing funding to the federal granting councils. These councils will, in turn, provide research moneys to post-secondary institutions and individuals as well as businesses.

I spent a great deal of time and effort over the past year examining this system. I think it is important, in light of our government's commitment to a knowledge-based economy, to understand exactly how this system operates.

As you know, I have been extremely interested in our post-secondary institutions, especially those located in Atlantic Canada. The information revealed by my research points to a disparity which exists between Atlantic Canadian universities and researchers as they have been short-changed compared to their counterparts in the rest of the country.

It is my belief there exists three inherent problems with the very nature of our research-granting system. Briefly, I found that, one, there exists a depth of inequality between availability of funding for Atlantic Canada and the rest of the country; two, the inequality is continuing to grow; and three, a new culture must be initiated in the current system in order to address the disparity between regions.

• (2050)

The goal of our research system is to promote innovation and education across the country. If the system does not treat each region equally, I do not understand how we will be able to achieve this goal. I will now outline how some of the research-granting bodies are failing Atlantic Canada.

First, I will begin with the Canadian Research Chairs Program, the CRCP. In the year 2000, the Canadian government created this program with a budget of \$900 million and a mandate to create 2,000 research chairs by the year 2005. Those chairs promote excellence in research as well as attract foreign researchers to this country. The chairs are either Tier 1, a five-year program with a \$200,000 budget, or Tier 2, a five-year program with a \$100,000 budget. The Tier 1 chair allocations generally go to established researchers. The Tier 2 allocations generally are awarded to lesser-known researchers. The problem, as I have discovered, is that these chairs are distributed based on a formula emphasizing past funding which has been granted by either the Canadian Institutes of Health Research, the National Science and Engineering Research Council, or the Social Sciences and Humanities Research Council. In other words, if a university does not have a history of receiving research funding from these sources, it is extremely difficult to now attract and share in the funding under the existing formula.

There is a provision to make available 6 per cent or 120 chairs to the "smaller" universities. The definition of "small" has nothing to do with the size of a university's facilities, faculty and enrolment, or its needs. The word "small" is used to refer, again, to the historic amount of research funding received or not received by universities from these granting councils. A university that received between \$100,000 and \$200,000 per annum would receive a further \$200,000 in the form of a chair, research chair or chairs. Unfortunately, no Atlantic Canadian university met this criteria and thus no additional funding was granted under this formula.

A look at the overall funding under the research chairs program reveals that of the 63 eligible universities, 37 received less than 1 per cent of the funding. That is to say, 37 universities received less than \$12 million in research monies.

On the flip side of this equation, the University of Toronto stands to receive \$73 million from a single source. While it can be appreciated that U of T should receive more funding due to the size of its research population, I have great difficulty understanding why it should receive six times more than Dalhousie University in Halifax, which possesses one third of U of T's research population. This hardly seems equitable. To

date, 1,210 chairs have been allocated nationally. Atlantic Canada has received 94 chairs, only 4.3 per cent.

Next, I turn to the Canadian Foundation for Innovation. This is an independent corporation receiving its funding from Ottawa. CFI tends to promote specialization in university research. The Innovation Fund is the largest fund of this corporation. It distributes these grants through competitions between researchers. In order to be eligible for CFI funding, a university must have received at least \$500,000 in sponsored research funding.

A researcher who is awarded support through CFI will receive 40 per cent of the total amount, but only if the other 60 per cent is also in place. That 60 per cent must come from the university or the private sector.

In Atlantic Canada, our universities do not have significant endowments and there is a relatively small corporate community. Due to these uncontrollable factors, our researchers find themselves in the situation of having much less opportunity to participate in this national wealth.

There are 15 members on the board of directors of CFI. Two of these are based in Atlantic Canada. There are also multidisciplinary committees, which make the direct decisions on funding. Of the 118 committee members, 8 are from Atlantic Canada, compared to 5 from France and 23 from the United States. There are fewer members on these committees from Atlantic Canada than from foreign nations!

There was a total of \$1.7 billion distributed from CFI over the past three years. Of this, the Atlantic provinces ranked seventh, eighth, ninth and tenth on the list, receiving a total of \$50 million in the form of 168 grants awarded to 17 institutions. This breaks down to a very bleak 3.9 per cent of the total funding, a meagre amount.

Under the umbrella of the Canadian Innovation Fund is the New Opportunities Fund. This program makes a similar approach to granting research funding as does CFI. The difference lies in the fact that the New Opportunities Fund, or NOF, focuses on younger, less-experienced researchers and attempts to provide funding without the need of competition between them and more experienced academics. This fund is available to researchers who are taking up their first full-time position with a Canadian university. This is a very important factor to Atlantic Canadian universities, as they have more trouble attracting international faculty than do their counterparts in the rest of the country.

Of the 968 funding grants allocated under the New Opportunities Fund, Atlantic Canadians received 67, or 6.9 per cent. This is a very inequitable amount when one considers that Atlantic Canada has 12 per cent of the total teaching faculty in Canadian universities. The NOF has a mandate to focus on the smaller universities, but this would not appear to be working in Atlantic Canada.

As far as both CFI and NOF are concerned, there is a tell-tale statistic. A professor in Ontario is 2.3 times more likely to have received grant money from either the NOF or the Innovation Fund of CFI than a professor working in Atlantic Canada.

Third, I would like to look at the Technology Partnerships Canada program. Centred on high-tech, TPC supports primarily the private sector with the help of university partnerships. This organization's track record of support for Atlantic Canada is simply abysmal. Over the past five years, TPC has provided \$2 billion in funding. Ontario has received 43 per cent and Quebec has received 40 per cent. Atlantic Canada, four provinces put together, received a paltry \$39 million, or 2 per cent, of this national wealth. It quickly becomes clear that TPC has very little interest in Atlantic Canada.

Fourth, I wish to speak briefly about the Millennium Scholarship Program. I know that it is designed to help students pay for their post-secondary education and is not targeted toward research. The allocation of scholarships under the local, provincial and territorial competitions is based on population. This simple formula results in one of the most positive federal policies for Atlantic Canada.

It is most noteworthy that at the national competition level, where the students of the country are pitted directly against each other in an attempt to win scholarship funds, freed from the confines of provincial quotas or allocation regulation, students from Atlantic Canada do very well. Our provinces have 7.6 per cent of the country's population, yet our students manage to win 14 per cent of the national scholarships in open competition. It would appear that while certain agencies seem to be disinterested in the academic potential of Atlantic Canada, that academic potential is ever present and vibrant.

I have attempted, through the course of this speech, to point out the federal agencies that I believe have not lived up to their national commitment to research in Atlantic Canada. I am deeply concerned with the low funding levels coming into Atlantic Canadian universities out of the Canadian Research Chairs Program, the Canadian Foundation for Innovation and the Technology Partnerships Canada program.

If no other aspect of this speech is remembered, honourable senators, at least keep this in mind: Atlantic Canadian researchers have been significantly less successful than their Central and Western Canadian neighbours when applying for funding from the federal government's granting agencies.

• (2100)

Ultimately, Industry Canada is responsible in whole or in part for all of these agencies, and thus must be singled out and approached about coming up with solutions to these discrepancies in funding. By the same token, there are newer agencies arriving on the scene, for example, Genome Canada, the Pierre Elliott Trudeau Foundation and the Canadian Graduates Scholarship Program. It is important that they are not allowed to follow the same path as those agencies mentioned above. They must not turn away from Atlantic Canada.

What is the solution to these problems? It is readily apparent that there is no easy answer. What is required is a complete

overhaul of the manner in which we view university research and the method we choose to distribute funds. We need a change in the culture of the process. It is time for a sea change that results in an equitable distribution of this national wealth so that Atlantic Canada's youth, teachers and researchers can be full participants in our Confederation.

I, therefore, place before honourable senators for their consideration the following suggestions: A step in the right direction would be the creation of a separate and independent ministry to attend to these problems; a dedicated body at the federal level with a seat at the cabinet table, which could provide the leadership required to transform the words in the Speech from the Throne into reality. We should put in place a guiding hand to maintain funding at acceptable levels, and to distribute this funding equitably throughout our country.

The Hon. the Speaker *pro tempore*: I am sorry to interrupt, Senator Moore, but I must advise that your time has expired.

Are you asking for leave?

Senator Moore: May I have leave, honourable senators, to complete this speech?

Hon. Senators: Agreed.

Senator Moore: The 2003-04 budget has allotted approximately \$2 billion in research funding for our post-secondary institutions from these various funding bodies. This is about six times the \$360 million budget of the Atlantic Canada Opportunities Agency, almost 10 times the Western Economic Diversification Agency budget of \$293 million, and nearly five times the budget of the Economic Development Agency for the region of Quebec of \$458 million. Each one of those agencies has a secretary of state responsible. I suggest that a ministry of post-secondary education be created. With a \$2 billion budget there should be a dedicated portfolio to administer this national wealth.

One of the major motivations in creating the 2003 Health Accord was to provide more accountability for how federal funds for health care are being spent by the provinces. The health component was separated from the Canadian Health and Social Transfer Agreement to provide greater transparency and accountability. The educational component should be separated from the Canadian Social Transfer Agreement, thereby enabling federal funding for post-secondary education to be tracked more closely and accounted for more fully.

Improvements should be made to our research funding system. There should be a more equitable representation from all regions, including Atlantic Canada, on the boards that decide the amounts and recipients of research funding. The criteria for how research funding is awarded should be reformed. The system has been and is continuing to fail Atlantic Canada. There are biases built into the system, such as basing the CRC funding on previous funding from the three councils, hence, if the school has not done well under the three councils, it will not fare well under the CRC. If our universities cannot break the existing cycle of bias, they will never get to participate in this national wealth.

Under the current Canada Social Transfer Agreement, funding is granted on a per capita basis to the province of residence of the post-secondary student. This should be changed to the province of place of learning. It is the province of learning that is, after all, providing the educational infrastructure for students from outside its borders. Therefore, fairness and reason cry out for this formula to be changed to provide that this CST per capita funding be granted to the province of place of learning.

In summary, honourable senators, Atlantic Canada has been educating the youth of our country for centuries. We are very good at it. Atlantic Canada is home to 16 per cent of Canada's universities, which have enrolled therein 9.5 per cent of Canada's full-time students. As mentioned earlier, we employ 12 per cent of Canada's teaching faculty. We are home to 7.6 per cent of Canada's population.

By any measure or standard of merit and sense of equity, Atlantic Canada's post-secondary institutions are not receiving their fair share of the national research wealth. As senators representing our region, we must speak out with a view to correcting this situation. To do any less is to foster the very real possibility of our institutions losing their best professors, their leading researchers and our brightest students. We cannot and we must not let them down. I hope that other senators from both sides of the chamber will participate in this inquiry.

Hon. Senators: Hear, hear!

Hon. Yves Morin: I should like to compliment Senator Moore on his excellent speech and I would like to take the adjournment in my name.

Hon. Pierrette Ringuette: Would Senator Moore take a question?

Senator Moore: Yes.

Senator Ringuette: I want to congratulate my honourable colleague because he went through a lot of research and data to obtain these figures. From my previous speech in this chamber, honourable senators will know the kind of figures we are looking at, the kind of policy and programs that are developed nationally that have an impact on Atlantic Canada, and therefore the people and the institutions that developed the policy and programs that make it so important to ensure that a level playing field is built into every system.

How does the honourable senator think that, within the public service institution, we could have some kind of impact so we have a level playing field in the area of education, universities and the knowledge economy?

Senator Moore: I thank Senator Ringuette for the question.

In my remarks I indicated that there must be a change in the culture of how we are addressing research funding, and how we are making decisions on the distribution of that national wealth. We must change the approach. We must change the make up of the decision makers so that — in speaking as a person from

Atlantic Canada and as a Nova Scotian — that we have proper representation on these decision making bodies so that we can ensure our students and researchers are given full consideration and get their proper, merited share of the national wealth.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Would the honourable senator agree that part of the problem is that government funding to the universities in the past decade has decreased on a per capita basis by 17 per cent?

Senator Moore: Was the honourable senator making a statement or asking a question?

That is part of the problem but, regardless of whether or not the funding has been reduced, it does not negate the fact that we are not having the input we should have in terms of the decision-making process and the distribution of that wealth.

Hon. Eymard G. Corbin: In considering the relative distribution of wealth to Atlantic universities, has Senator Moore examined the dichotomies between the French-speaking and English-speaking institutions?

Senator Moore: No, I did not approach it in that way. I looked primarily at all of our schools in Atlantic Canada. I did not consider at it on the basis of preferred language. My approach was to consider the matter on a total institutional basis.

• (2110)

Senator Kinsella: For clarification, Senator Moore drew our attention to the CFI and the chairs program. Is one not of the problems that there has been a shift in the research paradigm in terms of funding? In the past, it was a competition between researchers for research funds, but under these programs it is a competition between institutions, and the larger institutions have a greater opportunity to be compared favourably than the smaller institutions. Is that not one of the problems?

Senator Moore: The honourable senator is correct. That has been a big part of the problem in recent years. If you are a small university — and the measure of smallness relates to the amount of research funding you received in the immediate past — you really do not qualify; you cannot get into the game. Hence, the big universities are competing among themselves for the big dollars. If we do not break that cycle, I do not know how we will ever get in step to receive our fair share. I am not talking about a handout. Our students are bright. We have excellent researchers and we deserve a shot.

Senator Kinsella: In his excellent speech, the honourable senator also drew our attention to the Canadian Research Chairs Program. Would he not agree that it is unconscionable that, across the infrastructure of Canadian universities, if the model that is in place excludes some members of the Canadian Association of Universities and Colleges from getting even get one chair, there has to be something systemically wrong with the model of funding for the endowed chairs?

Senator Moore: I agree with the honourable senator's comment. It is true. This is part of the culture that I am suggesting has to be changed. The fundamentals are wrong. We do not have the opportunity to be considered.

Hon. Rose-Marie Losier-Cool: I, too, want to congratulate Senator Moore. Has he looked at page 32 of today's *Quorum* where it states that of 237 successful research projects for 46 universities through the Canada Foundation for Innovation, only one came to New Brunswick?

Senator Moore: I did not see that, but it is consistent with the numbers that have come out of the research I have been doing over the past year on this subject.

On motion of Senator Morin, debate adjourned.

[Translation]

ROYAL ASSENT

The Hon. the Speaker *pro tempore* informed the Senate that the following communication had been received:

RIDEAU HALL

June 19, 2003

Mr. Speaker,

I have the honour to inform you that the Honourable Louise Arbour, Puisne Judge of the Supreme Court of Canada, in her capacity as Deputy of the Governor General, signified royal assent by written declaration to the bills listed in the Schedule to this letter on the 19th day of June, 2003 at 8:39 p.m.

Yours sincerely,

Barbara Uteck
Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

Bills Assented to Thursday, June 19, 2003:

An Act respecting a National Acadian Day (*Bill S-5*)

An Act to amend the Pension Act and the Royal Canadian Mounted Police Superannuation Act (*Bill C-31*)

An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2004 (*Bill C-47*)

An Act to compensate military members injured during service (*Bill C-44*)

An Act to implement certain provisions of the budget tabled in Parliament on February 18, 2003 (*Bill C-28*)

An Act to amend the Members of Parliament Retiring Allowances Act and the Parliament of Canada Act (*Bill C-39*)

An Act to establish Merchant Navy Veterans Day (*Bill C-411*)

An Act to amend the Statutory Instruments Act (disallowance procedure for statutory instruments) (*Bill C-205*)

An Act to amend the Canada Elections Act and the Income Tax Act (political financing) (*Bill C-24*)

• (2120)

[English]

TRANSPORT AND COMMUNICATIONS

MOTION TO AUTHORIZE COMMITTEE TO MEET DURING ADJOURNMENT OF THE SENATE— DEBATE ADJOURNED

Hon. Joan Fraser, pursuant to notice of June 17, 2003, moved:

That the Standing Senate Committee on Transport and Communications be empowered, in accordance with rule 95(3)(a), to sit during the traditional summer adjournment of 2003, even though the Senate may then be adjourned for a period exceeding one week, until such time as the Senate is ordered to return.

She said: Honourable senators, I should like to say a few words of explanation, following which I shall propose a slight amendment to my motion.

This motion was originally crafted in more or less the traditional fashion. It has been something of a habit here to say, "empowered to sit when the Senate is not sitting." I listened carefully to the remarks of Senator Bacon, and I have every sympathy with her concern for the Senate staff. I also listened with substantial sympathy to the remarks of the Leader of the Opposition, suggesting that a greater degree of precision would be a helpful practice to adopt in the context of these motions, hence my explanation.

It has never been the intention of the Standing Senate Committee on Transport and Communications to sit during the months of July and August. We actually hope that we will not have to sit in September before the Senate resumes. However, there is a possibility that one or, perhaps, two witnesses, who will be very important to this stage of our media study, may not be available at any other time.

Therefore, we would like to propose that we have the freedom to sit, in a normal committee session, at some time between September 2, that is to say the day after Labour Day, and September 16, when the Senate will resume its sitting.

We may not have to use this measure. However, we would respectfully request that we be given this leave. We would, of course, canvass all the committee members. I do not think I could give the assurance to have the committee sit with every single member of it present. As we all know, when you have a 12-member committee, it is frequently the case, even when the Senate is sitting, that one or two of those members might not be available for whatever reason. However, we would obviously undertake to sit only with the consent of both sides.

This would clearly indicate that we would not conflict with the opposition's caucus in Saint John. Obviously, we would only meet if there were a quorum.

On those specific undertakings, honourable senators, I ask for your approval to modify my motion so that it will read:

That the Standing Senate Committee on Transport and Communications be empowered, in accordance with rule 95(3)(a), to sit as of September 2, 2003, even though the Senate may then be adjourned for a period exceeding one week, until such time as the Senate is ordered to return.

I have copies of the modified motion for the Speaker, and for any other senator who would like to see it. I do not think it is a complicated change that I am proposing.

Hon. Terry Stratton: Honourable senators, has the chair of the committee consulted with our members? Does she have a commitment from our members to do that work at that time?

Senator Fraser: I consulted specifically about this motion with the steering committee. However, discussion on hearing these witnesses in September, before the Senate sits, if that is absolutely the only time that we could do so, was held with the committee. There was general agreement that if that was the way we had to go, then that was the way we had to go.

Senator Stratton: Honourable senators, I have a real concern, as I have with the Finance Committee, sitting during that same time, which straddles our Senate caucus. The dates provided by Senator Fraser, which are from September 2 to September 16, would straddle through the time set for our caucus meeting. The amendment of the honourable senator does not address that issue.

All we have is that the committee would not sit during that time. I have a real concern there because, as we go through the summer and things evolve, you may need to sit on the ninth, the eighth or the tenth.

Senator Fraser: As I said, I do not think that could happen, since we would not be able to meet without the consent of the steering committee and without the presence of senators from both sides.

However, if it would meet the objection of Senator Stratton, I would be willing to modify my modified proposal to the effect that we would sit as of September 9, even though the Senate may be adjourned for a period exceeding one week, but not on September 9, 10 and 11.

Senator Stratton: Remember, honourable senators, we have to get there first. Our caucus is on the eighth, ninth and tenth, but it will require the week. Some of us will have to travel there on the seventh and return on the eleventh. I therefore ask that that week be omitted. That is what should take place.

Senator Fraser: Suppose some of your members were to say, "We would like to hear this witness, but he will only be available," for the sake of argument, "on September 12, and we can make it"?

Senator Lynch-Staunton: Try that on your caucus and see the reaction you would get.

Hon. Eymard G. Corbin: Honourable senators, Senator Fraser knows I have a great interest in the work of her committee. The honourable senator mentioned a person who could only come during this particular period. However, she did not inform us who that person is. I do not know if it is a propos to ask that question, but could the honourable senator take us into her confidence?

Senator Fraser: I really do not like to get specific about people in their absence without their commitment. I think it can be interpreted as a form of pressure. I do not believe in putting pressure on witnesses, unless we absolutely have to.

It was discussed in a meeting of the committee concerning future business a week ago today, I believe.

I should tell honourable senators that although Senator Corbin is not an official member of the committee he has attended quite a number of our meetings and has been making a valuable contribution to our work, which we greatly appreciate.

Senator Stratton: We have checked the calendar and September 8, 9 and 10 are the Monday, Tuesday and Wednesday. Members of the caucus would have to travel on Thursday to get home. That leaves Friday, a day on which you would not normally sit. It would be much simpler to say the following week, which is when we are sitting. That is exactly what transpired with Senator Murray, I believe.

For that reason, could the honourable senator not limit or tighten it up to that week?

Senator Fraser: In that case, Senator Stratton, I think the motion would be pointless. I am in your hands, honourable senators.

As I said, this motion was designed as an insurance policy, which is why I did not give specific dates. It is always possible for committees to seek permission from the leadership of both sides, if they wish to sit at an unusual time, but that can present more burdens than simply having the authorizing motion.

However, I am in your hands, honourable senators. I do not consider this to be a matter of massive constitutional importance. I propose that we simply put first the question on my modified motion and, if that were to carry, then the question would be put on the motion.

Hon. Lise Bacon: We have asked the chairs for specific dates. We adjourned a debate because we did not have specific dates. Can we have a specific date?

• (2130)

Senator Fraser: I thought that a date between the September 2 and 16 was not a wildly vague and imprecise date. I still think that.

I have just said that I am in the hands of honourable senators, so may I propose that we put the motion to a vote?

On motion of Senator Kinsella, debate adjourned.

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

COMMITTEE AUTHORIZED TO MEET DURING ADJOURNMENT OF THE SENATE

On Motion No. 139:

That the Standing Committee on Rules, Procedures and the Rights of Parliament be empowered, in accordance with rule 95(3)(a), to sit during the summer adjournment of 2003, even though the Senate may then be adjourned for a period exceeding one week, until such time as the Senate is ordered to return, and that, notwithstanding the usual practices of the Senate, the Committee be empowered to conduct its meetings by teleconference.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, Senator Milne is unable to be here this evening and she asked me to read her note in respect of an amendment to the motion. She writes: "I asked for the alteration in my original motion to be allowed to address the concern of some senators. The committee must meet some strict time lines if we are to properly formulate our recommendation to Internal Economy as to whether or not to file a notice to intervene before the Supreme Court in the matter of the *Vaid* case. We intend to hold two meetings on consecutive days and I only ask for a range of times in order to make certain that our meetings will not conflict with any staff holidays."

I will move on her behalf, seconded by Senator Robichaud, pursuant to rule 30 and with leave of the Senate, that I wish to modify the motion as follows:

By removing the words "during the summer adjournment of 2003," and replacing them with the following:

"during the week of July 28 to August 1 and the week of August 5 to 8, 2003";

And, further, by removing all of the words following the words "exceeding one week."

The motion would then read:

That the Standing Committee on Rules, Procedures and the Rights of Parliament be empowered, in accordance with

rule 95(3)(a), to sit during the week of July 28 to August 1 and the week of August 5 to 8, 2003, even though the Senate may then be adjourned for a period exceeding one week.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, what is the difference between this request, which is equally vague if we are talking about two weeks, and Senator Fraser's motion, which has a sense of urgency to it? Again, has staff been consulted about those two weeks? Have members been consulted about those two weeks? It is not a very satisfactory amendment.

Senator Carstairs: I can tell the honourable senator that the entire committee was canvassed with respect to these weeks. Senator Andreychuk, the Deputy Chair of the Rules Committee, has agreed to this motion according to the information that I have been given. The Rules Committee could not meet without large numbers of members from both sides of the chamber.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I understand the motion and there is a little bit more specificity for one of the weeks. However, the first Monday in August in most provinces across Canada is a civic holiday. That, therefore, raises the issue of travel time, particularly for honourable senators who come from the East Coast and the West Coast. As a member of that committee, in an ex officio capacity, I do not want to be travelling on New Brunswick Day. In the first week of August, Wednesday August 6, Thursday August 7, or Friday August 8 would be suitable. However, I do not want to meet on New Brunswick Day or the day immediately after, which would be a travel day.

Senator Carstairs: Senator, I would assume an undertaking on behalf of Senator Milne that a meeting would not be called for the day immediately following the holiday, but it would be called in the three days following.

Senator Lynch-Staunton: Honourable senators, I still want assurance on this matter. We are narrowing down the dates and that seems to meet the approval of two senators. However, I am not so much concerned about senators as I am concerned about staff. The first half of August is a popular vacation time. I want to know that the Rules Committee staff members have been alerted, have been able to make any necessary changes, and are satisfied that any disruption, if there is disruption, could be overcome. We have to give them that assurance. We cannot willy-nilly, vaguely allow committees to sit at some time within a given period and let the staff wait for the specific dates in order to make their plans, if such a situation exists. That is what I want to know.

Senator Carstairs: I can only read the note from Senator Milne in which she said that the committee intends to hold two meetings on consecutive days. Senator Milne asked for a range of time to ensure that the meetings would not conflict with any staff holidays.

Hon. Terry Stratton: Honourable senators, I was part of that meeting and the Clerk of the Committee, Blair Armitage, said that he would make adjustments and that it would not be a problem for him to attend such a meeting.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion, as amended?

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

Motion, as amended, agreed to, on division.

[Translation]

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, September 16, 2003, at 2 p.m.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, September 16, 2003, at 2 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(2nd Session, 37th Parliament)
Thursday, June 19, 2003

GOVERNMENT BILLS
(SENATE)

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-2	An Act to implement an agreement, conventions and protocols concluded between Canada and Kuwait, Mongolia, the United Arab Emirates, Moldova, Norway, Belgium and Italy for the avoidance of double taxation and the prevention of fiscal evasion and to amend the enacted text of three tax treaties.	02/10/02	02/10/23	Banking, Trade and Commerce	02/10/24	0	02/10/30	02/12/12	24/02
S-13	An Act to amend the Statistics Act	03/02/05	03/02/11	Social Affairs, Science and Technology	03/04/29	0	03/05/27		

GOVERNMENT BILLS
(HOUSE OF COMMONS)

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-2	An Act to establish a process for assessing the environmental and socio-economic effects of certain activities in Yukon	03/03/19	03/04/03	Energy, the Environment and Natural Resources	03/05/01	0	03/05/06	03/05/13	7/03
C-3	An Act to amend the Canada Pension Plan and the Canada Pension Plan Investment Board Act	03/02/26	03/03/25	Banking, Trade and Commerce	03/03/27	0	03/04/01	03/04/03	5/03
C-4	An Act to amend the Nuclear Safety and Control Act	02/12/10	02/12/12	Energy, the Environment and Natural Resources	03/02/06	0	03/02/12	03/02/13	1/03
C-5	An Act respecting the protection of wildlife species at risk in Canada	02/10/10	02/10/22	Energy, the Environment and Natural Resources	02/12/04	0	02/12/12	02/12/12	29/02
C-6	An Act to establish the Canadian Centre for the Independent Resolution of First Nations Specific Claims to provide for the filing, negotiation and resolution of specific claims and to make related amendments to other Acts	03/03/19	03/04/02	Aboriginal Peoples	03/06/12	5			
C-8	An Act to protect human health and safety and the environment by regulating products used for the control of pests	02/10/10	02/10/23	Social Affairs, Science and Technology	02/12/10	0	02/12/12	02/12/12	28/02
C-9	An Act to amend the Canadian Environmental Assessment Act	03/05/06	03/05/13	Energy, the Environment and Natural Resources	03/06/04	0	03/06/05	03/06/11	9/03

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-10	An Act to amend the Criminal Code (cruelty to animals and firearms) and the Firearms Act	02/10/10	02/11/20	Legal and Constitutional Affairs	02/11/28	Divided			
						Message from Commons concurring with division 03/05/07			
C-10A	An Act to amend the Criminal Code (firearms) and the Firearms Act	-	-	Legal and Constitutional Affairs	02/11/28	0	02/12/03	03/05/13	8/03
C-10B	An Act to amend the Criminal Code (cruelty to animals)	-	-	Legal and Constitutional Affairs	03/05/15	5	03/05/29		
						Message from Commons- agree with two amendments, disagree with two, and amend one 03/06/09 Referred to committee 03/06/11 Reported 03/06/12 Report adopted (insist on one, replace one, amend one) 03/06/19			
C-11	An Act to amend the Copyright Act	02/10/10	02/10/30	Social Affairs, Science and Technology	02/12/05	0	02/12/09	02/12/12	26/02
C-12	An Act to promote physical activity and sport	02/10/10	02/10/23	Social Affairs, Science and Technology	02/11/21	0 + 1 at 3 rd 02/12/04 2 at 3 rd 03/02/04	03/02/04	03/03/19	2/03
C-14	An Act providing for controls on the export, import or transit across Canada of rough diamonds and for a certification scheme for their export in order to meet Canada's obligations under the Kimberley Process	02/11/19	02/11/26	Energy, the Environment and Natural Resources	02/12/04	0	02/12/05	02/12/12	25/02
C-15	An Act to amend the Lobbyists Registration Act	03/03/19	03/04/03	Rules, Procedures and the Rights of Parliament	03/05/14	1	03/05/28	03/06/11	10/03
						Message from Commons- agree with amendment 03/06/09			
C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2003	02/12/05	02/12/10	-	-	-	02/12/11	02/12/12	27/02

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-24	An Act to amend the Canada Elections Act and the Income Tax Act (political financing)	03/06/11	03/06/16	Legal and Constitutional Affairs	03/06/19	0	03/06/19	03/06/19	
C-25	An Act to modernize employment and labour relations in the public service and to amend the Financial Administration Act and the Canadian Centre for Management Development Act and to make consequential amendments to other Acts	03/06/03	03/06/13	National Finance					
C-28	An Act to implement certain provisions of the budget tabled in Parliament on February 18, 2003	03/05/27	03/06/04	National Finance	03/06/12	0	03/06/19	03/06/19	
C-29	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2003	03/03/25	03/03/26	—	—	—	03/03/27	03/03/27	3/03
C-30	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2004	03/03/25	03/03/26	—	—	—	03/03/27	03/03/27	4/03
C-31	An Act to amend the Pension Act and the Royal Canadian Mounted Police Superannuation Act	03/06/03	03/06/11	National Security and Defence	03/06/16	0	03/06/17	03/06/19	
C-35	An Act to amend the National Defence Act (remuneration of military judges)	03/06/13							
C-39	An Act to amend the Members of Parliament Retiring Allowances Act and the Parliament of Canada Act	03/06/03	03/06/11	Legal and Constitutional Affairs	03/06/19	0	03/06/19	03/06/19	
C-42	An Act respecting the protection of the Antarctic Environment	03/06/13							
C-44	An Act to compensate military members injured during service	03/06/13	03/06/13	National Security and Defence	03/06/16	0	03/06/18	03/06/19	
C-47	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2004	03/06/13	03/06/17	—	—	—	03/06/18	03/06/19	

COMMONS PUBLIC BILLS

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-205	An Act to amend the Statutory Instruments Act (disallowance procedure for regulations)	03/06/16	03/06/19	—	—	—	03/06/19	03/06/19	
C-227	An Act respecting a national day of remembrance of the Battle of Vimy Ridge	03/02/25	03/03/26	National Security and Defence	03/04/02	0	03/04/03	03/04/03	6/03
C-249	An Act to amend the Competition Act	03/05/13							
C-300	An Act to change the names of certain electoral districts	02/11/19	03/06/03	Legal and Constitutional Affairs					
C-411	An Act to establish Merchant Navy Veterans Day	03/06/12	03/06/17	National Security and Defence	03/06/18	0	03/06/19	03/06/19	

SENATE PUBLIC BILLS

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-3	An Act to amend the National Anthem Act to include all Canadians (Sen. Poy)	02/10/02	03/06/10	Social Affairs, Science and Technology					
S-4	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	02/10/02							
S-5	An Act respecting a National Acadian Day (Sen. Comeau)	02/10/02	02/10/08	Legal and Constitutional Affairs	03/06/03	2	03/06/05	03/06/19	
S-6	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	02/10/03							
S-7	An Act to protect heritage lighthouses (Sen. Forrestall)	02/10/08	03/02/25	Social Affairs, Science and Technology	03/06/19	0			
S-8	An Act to amend the Broadcasting Act (Sen. Kinsella)	02/10/09	02/10/24	Transport and Communications	03/03/20	0	03/04/02		
S-9	An Act to honour Louis Riel and the Métis People (Sen. Chalifoux)	02/10/23	03/05/06	Legal and Constitutional Affairs					
S-10	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	02/10/31	03/02/25	Energy, the Environment and Natural Resources					
S-11	An Act to amend the Official Languages Act (promotion of English and French) (Sen. Gauthier)	02/12/10	03/05/07	Official Languages					
S-12	An Act to repeal legislation that has not been brought into force within ten years of receiving royal assent (Sen. Banks)	02/12/11	03/02/27	Legal and Constitutional Affairs					
S-14	An Act to amend the National Anthem Act to reflect the linguistic duality of Canada (Sen. Kinsella)	03/02/11	03/06/17	Official Languages					
S-15	An Act to remove certain doubts regarding the meaning of marriage (Sen. Cools)	03/02/13	Dropped from Order Paper pursuant to Rule 27(3) 03/06/05						
S-16	An Act to amend the Constitution Act, 1867 and the Parliament of Canada Act (Speakership of the Senate) (Sen. Oliver)	03/03/18							
S-17	An Act respecting the Canadian International Development Agency, to provide in particular for its continuation, governance, administration and accountability (Sen. Bolduc)	03/03/25	03/06/19	National Finance					

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-18	An Act to amend the Criminal Code (lottery schemes) (Sen. Lapointe)	03/04/02							
S-20	An Act to amend the Copyright Act (Sen. Day)	03/05/15							

PRIVATE BILLS

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-19	An Act respecting Scouts Canada (Sen. Di Nino)	03/05/14	03/06/09	Legal and Constitutional Affairs					
S-21	An Act to amalgamate the Canadian Association of Insurance and Financial Advisors and The Canadian Association of Financial Planners under the name The Financial Advisors Association of Canada (Sen. Kirby)	03/06/03	03/06/09	Banking, Trade and Commerce					

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Debates of the Senate

2nd SESSION

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37th PARLIAMENT

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OFFICIAL REPORT
(HANSARD)

Tuesday, September 16, 2003

—◆—
THE HONOURABLE LUCIE PÉPIN
SPEAKER PRO TEMPORE

This issue contains the latest listing of Senators, Officers of the Senate, the Ministry, and Senators serving on Standing, Special and Joint Committees.

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(Daily index of proceedings appears at back of this issue).

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THE SENATE

Tuesday, September 16, 2003

The Senate met at 2 p.m., the Speaker *pro tempore* in the Chair. • (1430)

Prayers.

VISITOR IN THE GALLERY

The Hon. the Speaker *pro tempore*: I wish to draw the attention of honourable senators to the presence in the gallery of Dr. Wolfgang Böhmer, President of the Bundesrat of the Federal Republic of Germany.

On behalf of all senators, I welcome you to the Senate of Canada.

NEW SENATORS

The Hon. the Speaker *pro tempore*: Honourable senators, I have the honour to inform the Senate that the Clerk has received certificates from the Registrar General of Canada showing that the following persons, respectively, have been summoned to the Senate:

Percy Downe
Paul J. Massicotte
Madeleine Plamondon
Marilyn Trenholme Counsell

INTRODUCTION

The Hon. the Speaker *pro tempore* having informed the Senate that there were senators without, waiting to be introduced:

The following honourable senators were introduced; presented Her Majesty's writs of summons; took the oath prescribed by law, which was administered by the Clerk; and were seated:

Hon. Percy Downe, of Charlottetown, Prince Edward Island, introduced between Hon. Sharon Carstairs, P.C., and Hon. Catherine S. Callbeck;

Hon. Paul J. Massicotte, of Mont-Royal, Quebec, introduced between Hon. Sharon Carstairs, P.C., and Hon. Céline Hervieux-Payette, P.C.;

Hon. Madeleine Plamondon, of Shawinigan, Quebec, introduced between Hon. Sharon Carstairs, P.C., and Hon. Lise Bacon; and

Hon. Marilyn Trenholme Counsell, of Sackville, New Brunswick, introduced between Hon. Sharon Carstairs, P.C., and Hon. David P. Smith, P.C.

The Hon. the Speaker *pro tempore* informed the Senate that each of the honourable senators named above had made and subscribed the declaration of qualification required by the Constitution Act, 1867, in the presence of the Clerk of the Senate, the Commissioner appointed to receive and witness the said declaration.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, it is a great privilege to welcome four new senators to our chamber this afternoon: the Honourable Percy Downe, the Honourable Paul J. Massicotte, the Honourable Madeleine Plamondon and the Honourable Marilyn Trenholme Counsell.

Senator Percy Downe is well known to all of us who serve on this side of the chamber and some of us who have moved across the aisle because we have run out of room. He has served a premier in this country, our very own Senator Catherine Callbeck, three federal ministers and our Prime Minister. We look forward to benefiting from his extensive political experience here in this chamber.

Senator Massicotte thinks he represents the province of Quebec, but those of us who come from Manitoba really think that he is a Manitoba senator. He was born in that province and he obtained his education there.

[Translation]

He was also chartered in Quebec, and enjoyed the same successful business career there. In addition to his business background, Mr. Massicotte has provided devoted services to a number of not-for-profit organizations.

We also welcome the Honourable Madeleine Plamondon. As she has said herself so aptly, we must live our faith, and she plans to continue to defend forgotten Canadians, particularly women and seniors. We encourage her to continue to represent her chosen constituency here in Parliament.

[English]

The Honourable Marilyn Trenholme Counsell has earned a great deal of respect among her peers in the medical community for her life work, which she has done both as a physician and in all other matters of public health. As a former provincial cabinet minister and, until recently, New Brunswick's Lieutenant-Governor, we look forward to the contribution she will be able to make to our chamber. I hope all honourable senators will join with me in welcoming our four new colleagues to this chamber.

Hon. Senators: Hear, hear!

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, in joining with the Leader of the Government in welcoming our new colleagues, I trust they will dismiss — if they have not done so already — the infantile criticism that seems to follow any appointment to this place. According to those who should know better, the only reason the vast majority of us are here is because of friendship and loyalty to the Prime Minister. Any other considerations leading to an appointment are simply ignored. How ironic it is, then, that while senators are the subject of constant derision and ridicule, the

Senate as an institution is recognized as contributing more to the legislative process than the other place. It has greater and wider experience, less partisanship, and its committees produce highly praised constructive reports and studies following patient and thorough examination of bills and various subject matters. I think we can agree that if all of this can be achieved by loyal friends of prime ministers past and present, then long live and more power to the appointment criteria.

[Translation]

On behalf of all my colleagues in the Conservative caucus, I congratulate our new colleagues on their appointments and assure them of our full cooperation as they prepare to carry out their new duties. I have no doubt they will be equal to the task.

[English]

Hon. Senators: Hear, hear!

Hon. Gerry St. Germain: Honourable senators, I too, would like to welcome the new senators who have arrived in the Senate. I congratulate the Prime Minister on appointing an independent. I do not know if there is something going on here — are they trying to squeeze me out of this place? Senator Prud'homme and I are becoming concerned.

SENATORS' STATEMENTS

THE HONOURABLE WILBERT J. KEON

CONGRATULATIONS ON RENAMING UNIVERSITY OF OTTAWA HEART INSTITUTE IN SENATOR'S HONOUR

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, yesterday afternoon, I had the pleasure of attending an event at the University of Ottawa Heart Institute which can be only of special interest to all colleagues. I will quote from the invitation:

In recognition of Dr. Wilbert J. Keon's unparalleled contribution to the creation and development of the University of Ottawa Heart Institute, the board of directors has named the institute building in his honour.

Hon. Senators: Hear, hear!

Senator Lynch-Staunton: It is a well-deserved tribute to an outstanding cardiologist and humanitarian who brings great credit to the Senate, named as he was — or so it was said at the time — solely because of his friendship with the Prime Minister.

[Translation]

OFFICIAL LANGUAGES

FEDERAL COURT DECISION ON CASE BROUGHT BY FORUM OF MAYORS OF ACADIAN PENINSULA

Hon. Jean-Robert Gauthier: Honourable senators, a Federal Court judgment brought down on September 8, 2003, will set legal precedent and is an outcome greeted with great satisfaction by official languages communities.

The case in question was a proceeding before the Federal Court between the Forum des maires de la péninsule acadienne and the Canadian Food Inspection Agency.

These mayors of municipalities on the Acadian Peninsula claimed that the administrative reorganization of the agency was detrimental to francophone regions, would have an impact upon services to the public and did not respect employees' right to work in their language. The Office of the Commissioner of Official Languages had carried out an in-depth investigation under the Official Languages Act in July of 2001. The Forum des maires was dissatisfied with the government's action and initiated court proceedings in September of 2001.

Senators are aware of this issue because I have introduced two bills to give some teeth to the Official Languages Act, making its section 41 mandatory. The most recent of these was Bill S-11, referred to the Senate Committee on Official Languages on May 7, 2003.

At the present time, the wording of section 41 is interpreted by the government and its advisors as being political and declaratory in nature and, consequently, as not conferring any rights on the official language communities.

There are a number of us who object to the government's minimalist position in this instance, since we believe that Part VII is mandatory and creates legal obligations for the government with respect to the communities.

• (1440)

Until now, neither the Office of the Commissioner of Official Languages nor ordinary citizens could launch legal proceedings with respect to this part of the Act. We have tried, but it has been impossible. In its defence, the government invoked its interpretation of Part VII, maintaining that the Federal Court was not even competent to deal with the allegations brought by the forum of mayors of the Acadian Peninsula.

This is the first time the Federal Court has dealt with this issue. This decision, favourable to the official languages communities, will make history and create jurisprudence. All federal institutions, without exception, must be aware of the scope of Part VII of the Official Languages Act. In particular, section 41 deals with the government's commitment to enhancing the vitality and supporting the development of English- and French-language minority communities everywhere in Canada.

The Federal Court's decision of September 8 will create a legal precedent. We will refer to it to remind the government that it has obligations under Part VII of the Official Languages Act, and that it must give satisfaction to all the communities, not just those in one part of Canada such as the Maritimes, but everywhere, including the West, Ontario and Quebec.

[English]

VISIBLE MINORITIES

STUDY BY CONFERENCE BOARD OF CANADA ON BARRIERS TO ADVANCEMENT

Hon. Donald H. Oliver: Honourable senators, the Conference Board of Canada is arguably the most respected think-tank in Canada. This summer, I was able to persuade them to undertake the most comprehensive study of barriers to the advancement of visible minorities in the history of this country.

More than a study, the Conference Board's project, with my encouragement, is designed to put in place Canada-wide standards to ensure visible minorities have equal access to employment and senior management positions in both the public and private sectors. The project was launched last month.

Why is this project so important to me? For more than 40 years, I have been lobbying to try to equalize opportunities for blacks, in particular, and for visible minorities, in general, in both the public and private sectors. I have not been very successful. In fact, I have made very little progress.

One reason for that is that each time I get close to encouraging a senior white executive to make a change and accept the benefits of diversity, he or she poses the argument that there is no proof of such exclusion, no proof that there are real barriers, and no proof that there is a glass ceiling.

I determined that an in-depth, detailed, qualitative and quantitative study was required of attitudes and barriers that would prove that visible minorities face problems. The goal of this project is to develop a list of best practices that can be used both on Bay Street and in the public service to help make workplace diversity a reality.

I am pleased with the types of methodologies that have been adopted by the Conference Board, which include an analysis and review of previously existing literature on the barriers faced by minorities; an analysis of the contributions made by visible minorities to the Canadian economy; focus groups with visible minority citizens and recent immigrants; case studies of exemplary national and international organizations whose policies and practices have successfully created inclusive, high-performing work environments; the development of a self-assessment guide for businesses to gauge their integration of visible minorities into the workplace; and a scale to gauge how well those cultural requirements are understood and met within the company.

Honourable senators, I am excited about this project. Later this fall, I intend to set down an inquiry so that I may explain how the study is proceeding.

[Senator Gauthier]

I can tell you now that we have a preliminary list of criteria which we will consider in attempting to define the best practices from both private and public considerations. The questions we will ask will include the following: Are diversity-selection recruitment and selection techniques employed? Are there programs promoting career advancement for minorities? Are there clear promotion practices of visible minorities into management and board positions? Is there corporate involvement with visible minority communities? Is there managerial accountability for meeting diversity goals? Are there accommodations for cultural differences? Are visible minority-owned businesses in the supply chain?

Honourable senators, this is the basis for what is, in my opinion, the most exciting and most important study ever undertaken with respect to visible minorities in Canada.

THE HONOURABLE WILBERT J. KEON

CONGRATULATIONS ON RENAMING OF UNIVERSITY OF OTTAWA HEART INSTITUTE IN SENATOR'S HONOUR

Hon. Michael Kirby: Honourable senators, I rise to make a brief comment in light of the comments of Senator Lynch-Staunton relating to the enormous honour that Senator Keon had bestowed upon him at yesterday's ceremony, when it was made quite clear that Senator Keon has made an enormous contribution to the Ottawa medical scene. The heart institute was originally his idea, and his efforts made it happen.

Some are no longer here, but a number of former patients of Dr. Keon have been our colleagues in this chamber from time to time. We are all grateful for that.

In addition, former Prime Minister Mulroney was eloquent in his comments on Dr. Keon's performance within the broader medical community, both nationally and internationally.

However, the enormous contribution that Senator Keon made in the last three years to the health care study undertaken by the Standing Senate Committee on Social Affairs, Science and Technology was not mentioned. As many of you know, that study has now become the report against which changes in health care policy in this country are being measured. The other study undertaken by a former premier of Saskatchewan appears to have vanished into oblivion.

Honourable senators, to be perfectly honest, our committee could not have accomplished what it did without the enormous intellectual effort and the time that Senator Keon gave, despite all the other things he was doing. He was still a practising cardiac surgeon and still the CEO of the Ottawa Hospital. Nevertheless, he put in much time on the report.

Equally important, he has been a great help in communicating the committee's findings. Whenever he has been asked to make a speech, whether in Kelowna, B.C., in Windsor, Ontario, or a city in the Atlantic provinces, he has been willing to talk to a wide variety of groups about the suggestions for health care reform proposed by the committee.

On behalf of all the members of the committee, I want to publicly acknowledge his contribution to the report and to recognize that it could never have been done, at least it would not have been of such high quality, without his magnificent effort.

JUSTICE

SAME SEX MARRIAGE

Hon. Gerry St. Germain: Honourable senators, we live in times when an accelerated pace of change is driven by technology's limitless frontiers. The globe has become a small community where people must grapple with their differences without yielding their distinct identity.

Our young people are presented with both tremendous opportunities and almost paralyzing choices, often in the form of terrible temptations. These are times that demand grounding. These times demand a return to the things that we know and cherish as a culture. It is a time when values are not only important but also essential.

People yearn for those things that nurture us as individuals and radiate from each of us to form the essential elements of a society — the closeness of a family, the comfort of a home, the support of community, the reality of our faith, whatever our religious beliefs. These are values. Understanding and renewing our commitment to our fundamental values can provide us with the touchstones that we need to confidently seize the future.

Honourable senators, no government should be able to so radically re-engineer a culture so as to tear apart the very foundations of society. However, the current Liberal government has done that, and they are continuing with the destruction of our values.

Blinded by an unquestioned commitment to the principles of liberalism, they are slowly but surely tearing at the fabric of Canadian society, attacking those things that would allow us to find renewed insight for our times. For more than two decades, social engineers, committed to the ideology of liberalism, have chipped away at the values that form the bedrock of our society. They have assaulted our traditions and have made a mockery of society's fundamental institutions. They have abandoned the notion of fairness and decency in the structure and conduct of our justice system, relying instead on a Charter of Rights and Freedoms that is void of responsibilities.

Today these Liberal social engineers have in their sights one of the most cherished keystones of our culture — the institution of marriage between man and woman. Marriage is one of those fundamental values and beliefs that we have agreed to share, translated into the code of conduct for our society.

• (1450)

This code of conduct was influenced by the collective beliefs of many. We can point today to its origins in the spiritual or religious world. Those who remain true to their religious teachings cherish these origins. All of us, though, need to be able to appreciate the value of these fundamental beliefs

regardless of our religious teachings or spiritual beliefs. To attach no value to such fundamental values is to rob any meaning from our relations between people in society. The tradition of marriage between man and woman as currently defined in our laws is fundamental to the way in which we have ordered our society and its most basic unit — the family. Common sense and a respect for the origins of life dictated the evolution of this tradition as embraced in both religious practice and secular conduct.

Honourable senators, the Liberal social engineers refuse to admit that Canadians and people across the globe are yearning to return to the words and deeds that define the challenges of the past inspired by generations before us. They are searching for renewed insight for the challenges of our own time. Meanwhile, our government is robbing them of those touchstones. Our culture's future can hardly risk such recklessness.

[Translation]

THE HONOURABLE LISE BACON

CONGRATULATIONS ON APPOINTMENT AS OFFICER OF LEGION OF HONOUR

Hon. Jean-Claude Rivest: Honourable senators, on Thursday afternoon, one of our colleagues, Senator Lise Bacon, will be appointed as an Officer of the Legion of Honour by the French government. By so honouring Senator Bacon, the President of the French Republic is highlighting her significant contribution, as Quebec's Deputy Premier and Minister of Cultural Affairs, to the development of the French language and culture in Quebec. This honour recognizes her ongoing efforts as a member of the France-Canada Association to promote the French language and culture in Canada. Congratulations to Senator Bacon.

[English]

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, we are absolutely delighted about the honour that is being paid to Senator Bacon, but we are equally delighted that the same honour is being given to the Honourable Senator Marie Poulin. It is an honour that has previously been received by Senator Joyal and Senator Gauthier. We recognize that we do, indeed, have many distinguished people in this chamber of ours. We heard earlier today of Senator Keon, but the list goes on. I can only concur with the earlier remarks of the Leader of the Opposition about the quality of senators.

[Translation]

ROUTINE PROCEEDINGS

INTEGRITY OFFICER OF PUBLIC SERVICE

2002-03 REPORT TABLED

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, two copies of the 2002-03 annual report to Parliament by the Integrity Officer of the Public Service.

[English]

AMERICA DAY BILL

FIRST READING

Hon. Jeremiah S. Grafstein presented Bill S-22, respecting America Day.

Bill read first time.

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the second time?

On motion of Senator Grafstein, bill placed on the Orders of the Day for second reading two days hence.

**ORGANIZATION FOR SECURITY AND CO-OPERATION
IN EUROPE PROPOSAL FOR RESTITUTION OF
CONFISCATED PROPERTIES IN EASTERN EUROPE**

**NOTICE OF MOTION REQUESTING
GOVERNMENT SUPPORT**

Hon. Jeremiah S. Grafstein: Honourable senators, I give notice that on Tuesday, September 23, 2003, I will move:

That the Senate urge the Government of Canada to join those Parliaments and governments of other member countries of the Organization of Security and Economic Co-operation in Europe who are taking active steps, pursuant to OSCE resolutions to that effect, to restore or grant restitution for communal religious properties owned by Christian, Jewish and Muslim organizations confiscated during the fascist and communist periods in Central and Eastern European states.

[Translation]

**SOCIO-ECONOMIC IMPLICATIONS
OF DECREASING POPULATION**

NOTICE OF INQUIRY

Hon. Marie-P. Poulin: Honourable senators, I give notice that on Tuesday, September 23, 2003:

I will call the attention of the Senate to the fact that the 2001 census results, published in 2003, show that the Canadian population is decreasing in many regions across Canada and that this trend has short- and long-term socio-economic implications.

[English]

QUESTION PERIOD

HEALTH

**ONTARIO—SEVERE ACUTE RESPIRATORY
SYNDROME—ECONOMIC COMPENSATION UNDER
DISASTER FINANCIAL ASSISTANCE
ARRANGEMENT RULES**

Hon. Brenda M. Robertson: Honourable senators, the Province of Ontario has been fighting with the federal government for several months over who will pay the bill for the costs incurred by this spring's SARS crisis in the Toronto area. The federal government has said that those costs do not qualify for compensation under the current disaster financial assistance arrangements rules because they were not caused by an environmental disaster. In July, Health Minister Anne McLellan said that the federal government may change the rules to make public health emergencies eligible for federal disaster relief payments, but no firm commitment to do so has yet been made. Will the government change the disaster relief rules to allow public health emergencies such as the SARS outbreak to qualify for economic compensation?

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for her question. It is clear that the DFAA program is a very blunt instrument. It has a limited amount of things for which it can be paid out. The government began a review of that program some time ago, and there are ongoing discussions taking place with the provinces and territories to discuss issues related to eligibility. A report will be submitted to the government in the near future.

However, it is also important to recognize that the Province of Ontario was offered \$100 million, with no conditions attached whatsoever. They were also given the offer of a further \$150 million, with some conditions attached, which of course related to proof being given of what the costs had been in the Province of Ontario, and the Ontario government turned it down.

Senator Robertson: Honourable senators, yes, the federal government has offered the Province of Ontario a SARS relief package of \$250 million. Ontario, of course, says that the cost to its health care system alone is at least \$1 billion, and it needs \$150 million more to deal with just the immediate medical expenses caused by the outbreak. Could the Leader of the Government in the Senate tell us if the federal government is re-thinking its initial proposal to the Province of Ontario? Will it increase the amount of compensation being offered while it straightens out the other problems that they have with the first program mentioned?

• (1500)

Senator Carstairs: Since the Province of Ontario has not agreed to any conditions under which it would take the additional \$150 million, and it has not agreed to take the \$100 million to which no conditions whatsoever were attached, there is no consideration of offering more money at the present time.

NEGOTIATIONS TO ESTABLISH
HEALTH COUNCIL OF CANADA

Hon. Wilbert J. Keon: My question is for the Leader of the Government. Honourable senators, the Minister of Health, Anne McLellan, has announced that the provinces and territories, with the exception of Quebec, have agreed in principle to establish a new national agency, the health council of Canada. The council, composed of citizens, health-care workers and officials from all levels of government, will monitor the performance of medicare. There have been reports, however, that the provinces of Alberta, British Columbia and Ontario have apprehensions over what the council's mandate will be and how much it will cost. The provinces have given themselves seven weeks to reach a consensus.

Will the Leader of the Government in the Senate tell us if the federal government will wait to move forward with this proposal, if there is no agreement in seven weeks' time among the provinces on such basic matters as the council's funding and mandate?

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for that question. It was agreed at the ministerial meeting of all health ministers that took place about 10 days ago, that the health council is still very much a matter of debate. Clearly, the Minister of Health at the federal level would like all provinces to participate and would like them all at the table. We will not prejudge the outcome of the next seven weeks at this time.

Senator Keon: Honourable senators, the Province of Quebec has decided to set up its own version of the proposed health council. It will appoint an independent health commissioner who will report directly to the National Assembly and who will have the power to hear complaints from the public and assess the availability of health services in the province. Could the Leader of the Government in the Senate tell us if the proposed health council of Canada will have powers comparable to those of Quebec's proposed independent health commissioner?

Senator Carstairs: Honourable senators, we want to ensure that, whatever health councils are established, they be as identical to one another as possible. I do not want to do or say anything today that would jeopardize the ongoing discussions. As the honourable senator is aware, some provinces have accepted, in its totality, the original organizational chart put forward by the federal government. Others have some concerns about that. Hopefully, over the next seven weeks, an accommodation can be found, and then the health council and the Quebec model can go forward together in a somewhat identical way.

[Translation]

OFFICIAL LANGUAGES

FEDERAL COURT DECISION ON CASE BROUGHT
BY FORUM OF MAYORS OF ACADIAN PENINSULA

Hon. Jean-Robert Gauthier: Honourable senators, my question is for the Leader of the Government. I gave notice of my question this morning.

My question concerns the Federal Court decision on the case brought by the Forum des maires de la péninsule acadienne against the Canadian Food Inspection Agency.

The mayors of the Acadian Peninsula alleged that the administrative reorganization of the Agency was done to the detriment of French-language regions and that it had an impact on the services provided to the public and did not respect the right to work in one's language.

The Office of the Commissioner of Official Languages conducted a full investigation and submitted a report in July 2001. Nothing changed. The Forum des maires de la péninsule acadienne filed suit in September 2001.

In its defence, the government invoked its interpretation and definition of Part VII of the Act and suggested that the Federal Court was not competent to rule on the allegations made by the Forum des maires de la péninsule acadienne. To my knowledge, this is the first time that a court has dealt with this issue and corrected the government's interpretation.

Judge Blais of the Federal Court ordered the Canadian Food Inspection Agency to annul its decision to transfer seasonal inspector positions from the Acadian Peninsula, claiming that the administrative reorganization of the Agency had been detrimental to French-language regions.

Judge Blais's order stated that all federal institutions must be aware of the scope of Part VII of the Act, which concerns the promotion of French and English.

I will read you an excerpt—Paragraph 51—of the order:

In terms of the implementation of the recommendation on Part VII of the Official Languages Act, the Agency would like clarifications as to how to comply with this part of the Official Languages Act. Moreover, it asks whether this recommendation will apply to all future decisions or whether it will be taken into account for all future decisions or whether it should be taken into account for the decision at the heart of the report on this investigation.

I wrote to the minister responsible and sent her a copy. Could you give us the government's position on Judge Blais' order and tell us what exactly will happen now?

[English]

Hon. Sharon Carstairs (Leader of the Government): As the honourable senator indicates, he did indeed present a question to my office this morning. I immediately put that question forward for a response from the PCO and the PMO. I have not yet received that response. As soon as I do, I will make that information available to the honourable senator.

[Translation]

Senator Gauthier: You will recall the contraventions issue, which dragged on and on for years. Will the government appeal this Federal Court decision? And if so, why?

[English]

Senator Carstairs: As I indicated to the honourable senator, I do not have a response to his question. However, I will share it with him as soon as I receive it.

CITIZENSHIP AND IMMIGRATION

NATIONAL BIOMETRIC IDENTIFICATION CARD

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate. This summer, the Minister of Citizenship and Immigration, Denis Coderre, once again raised the idea of issuing a biometric national identification card for all Canadians. While the minister has said that there should be a national debate on this matter, he has also said that Canadians should expect to see a card in place by 2005.

If it is the intention of the federal government to have a debate on this complex issue, why has it already set a deadline by which it wishes to have the card in place?

Hon. Sharon Carstairs (Leader of the Government): Before I answer the honourable senator's question, let me congratulate him on the work he did both leading up to this summer and throughout this summer to get the Conference Board of Canada to engage in the study. That is a momentous step forward, and I wish to congratulate him on that.

Some Hon. Senators: Hear, hear!

Senator Carstairs: In response to his question, as the honourable senator knows, Minister Coderre has, on a number of occasions, asked for a national study to be conducted on this issue. The reference to 2005 is one that is frequently made by our friends to the south, who want more information when Canadians cross the border. There is discussion now as to whether Canadians should be required to have a biometric passport when they enter the United States. We can reject the concept of a national identity card — and, the minister has called for that broad debate — but Canadians are widely travelled individuals and they may find themselves limited if we do not move forward with this debate.

Senator Oliver: The honourable minister mentioned in her response that the U.S. is putting pressure on Canada. In fact, 26 states have indicated that Canadians will not be allowed to enter the United States without their passports and, eventually, biometric identifiers such as iris scans and digital photos. This may mean that Canada will join 26 other European and Asian countries whose citizens must have biometric travel papers by October 26, 2004, in order to enter the United States. Could the Leader of the Government tell us when we may have a response to this news?

Senator Carstairs: Honourable senators, I can tell the honourable senator that the Deputy Prime Minister is meeting with his counterpart in the United States. As you know, we have done much work on the Smart Border proposal, cooperatively. That would seem to be somewhat diminished by this most recent announcement that we would require this high tech passenger portability and that we would have to carry a passport with us at all times.

• (1510)

We are still hopeful that Canada could be exempted from such a scheme because we have been exempted in the past from other, similar programs that the United States has introduced.

The reality, however, is that the United States controls its borders and can demand whatever documentation it wants in allowing people to cross that border.

NATIONAL DEFENCE

USED SUBMARINES PURCHASED FROM UNITED KINGDOM—SUPPORT COSTS

Hon. J. Michael Forrestall: Honourable senators, I have a question for the Leader of the Government in the Senate. She will be pleased to know that my questions will have nothing to do with helicopters for a while. I am waiting for Paul Martin to assume his rightful role over there, because he has said that this situation must be solved immediately. I will wait until he is ensconced in several months.

However, I have a problem with submarines. This summer it was reported that the budget for spare parts and engineering support for the used submarines Canada bought from England has more than doubled over the past several years. The original budget of \$86 million, awarded in a contract with a British company, has ballooned to \$192 million and is projected to go even higher by next summer. One of the reasons given by the project manager for the increasing costs is the delay in getting the submarines from England. He also noted that in spite of increasing costs, the overall program is still on budget.

Can the Leader of the Government in the Senate tell the chamber what the overall budget for the submarines is and, if it is possible, explain how, with the doubling of support costs, the program can remain within budget?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I do not suppose it will surprise Senator Forrestall one little bit that I asked for an update and briefing on the Maritime Helicopter Project before I came back this afternoon. Unfortunately, I did not ask for an update on the submarines. I will go back and get an update on the submarines. I will report back to the honourable senator, hopefully quickly.

Senator Forrestall: Honourable senators, perhaps the minister might be so kind as to find out at the same time what caused the delays in the first place in getting the submarines from the United Kingdom. Could she tell us why the initial engineering and supply management contract itself was awarded to a British company and not a Canadian one?

Senator Carstairs: Honourable senators, I will do my best to find the answers for the honourable senator. Harking back to the honourable senator's first question, nothing would give me greater pleasure than to be able to announce that we were moving on the Maritime Helicopter Project immediately.

BUDGET—REQUEST TO FIND SAVINGS

Hon. Norman K. Atkins: Honourable senators, my question is to the Leader of the Government in the Senate. The well-respected *Jane's Defence Weekly Magazine* noted that recent budget increases to the defence budget are not enough to cover existing operations or fund the military modernization program. The budget tabled last February committed DND to finding \$200 million in administrative savings to be used to address the sustainability gap.

Last month, it was reported that the Finance Minister asked National Defence to find another \$200 million in savings. This would help fund the government-wide billion-dollar reallocation for unexpected expenses incurred this year.

Is DND now asked to find a total of \$400 million in savings?

Hon. Sharon Carstairs (Leader of the Government): No, honourable senators, they are not. The \$200 million has been referred to in two different ways and is in fact exactly the same amount of money.

Senator Atkins: Can the Leader of the Government tell us if the \$200 million requested from DND for the reallocation is still to be used to help fund the department's sustainability gap or is it being reallocated to other departments?

Senator Carstairs: No, honourable senators, there is no reallocation to other departments. Having said that, there is no question that some of that \$800 million will be allocated to the deployment to Afghanistan.

AGRICULTURE AND AGRI-FOOD

BOVINE SPONGIFORM ENCEPHALOPATHY— UNITED STATES TRADE RESTRICTIONS

Hon. Leonard J. Gustafson: Honourable senators, I am sure that everyone in the Senate is well aware of the implications of the mad cow disease across the country this summer. The problem is very serious. I would be remiss if I did not raise the matter here. I am sure you are all aware of the issue.

To the Leader of the Government in the Senate, it appears to me that there will be no answer to this situation unless we get live cattle moving across the border.

Would the leader take to cabinet the suggestion that a high-level delegation, independent of political implications, go to Washington to put this problem before the Americans? It seems that the problem — one cow — has been escalated to a ridiculous extent. What we need is a high-level delegation that would go to Washington and lay our case before them.

Hon. Sharon Carstairs (Leader of the Government): The honourable senator raises the issue of BSE and its severe implications in this country. No provinces, I would suggest, are feeling that more so than the provinces of Saskatchewan and Manitoba, although it is frequently seen primarily as an Alberta problem. However, because there is little or no slaughtering capacity in Saskatchewan and Manitoba, those two provinces have been extremely badly hurt. Even the opening of the border for cut meat, as has happened, is not having much impact on those provinces.

I can assure the honourable senator that I have been raising this issue on a continual basis all summer long on behalf of both of our provinces.

To answer his specific question, the government believes that all lines of communication are flowing very well on this issue. As the honourable senator knows, we have not been able to change the minds of the Americans except on cuts. However, the Minister of Agriculture is in constant contact with the Secretary of Agriculture in the United States. The President of the United States and the Prime Minister of Canada have had numerous discussions on this situation. The barrier to shipping live cattle across the border or across the forty-ninth parallel is caused principally by the American market in Japan. Japan is creating the difficulty.

To answer the honourable senator's question, no, we do not believe a high-level delegation will be more effective than the work that is now ongoing and the personal relationships that have developed between the two countries as a result of it.

BOVINE SPONGIFORM ENCEPHALOPATHY— ASSISTANCE TO FARMERS

Hon. Gerry St. Germain: Honourable senators, my question is for the Leader of the Government in the Senate. The U.S. Department of Agriculture has indicated that it wants new rules for the importation of live cattle into the United States. Is the Leader of the Government in the Senate aware of whether or not Canadian agricultural officials will be part of this process, or will the Americans proceed arbitrarily, in their own best interests?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, it is fair to say that almost all countries in the world act in their own best interests. Having said that, the new rules, should there be any new rules — and the United States seems to have backed off on them for the moment — will be worked out cooperatively.

• (1520)

Senator St. Germain: Honourable senators, my second supplementary question relates to the fact that last week, the Saskatchewan government announced more assistance to help the struggling cattle industry following the lead of other major provinces, like Ontario and Alberta. However, in so doing, the Saskatchewan government was critical of the federal government for pulling out of the national BSE assistance program at the end of August. Is that correct? Does that reaffirm what a cattle rancher clearly indicated in an interview when he said to the interviewer that we made one mistake in farming and in ranching. He said that instead of calling our animals Charolais and Limousin, we should have called them Bombardier. There is a lot of truth to that as far as it concerns many of us in the West.

With the federal and provincial agriculture ministers set to meet in Ottawa later this month, and with the cattle industry still struggling, is the government prepared to put up more money to assist these farmers? This is not a handout they are asking for; this is something beyond their control.

Senator Carstairs: There are a number of parts to the honourable senator's question. With respect to the program that the federal government announced in June, it was to run out by mid-August. That was the agreement everyone signed. It was extended for two weeks to cover the period of time before the American border opened. Therefore, the federal government has met its expectation under that particular agreement.

Having said that, many of the provinces have now signed bilateral agricultural policy framework agreements — British Columbia having been one of them — which in itself has freed up new money to be spent in those provinces. We hope the other provinces will get on board rapidly so that money can be spent in their provinces as well.

BOVINE SPONGIFORM ENCEPHALOPATHY—
INTEGRATION WITH UNITED STATES
BEEF PRODUCERS

Hon. Jeremiah S. Grafstein: Honourable senators, last spring some senators will recall that we met in Niagara Falls with our American counterparts — congressmen from the United States. We agreed to set up an informal bilateral committee to pursue integration of the beef producers on both sides of the border to hopefully get to the bottom of and overcome the problems faced by our Canadian producers because of mad cow disease.

Has the government given conversation to promoting greater integration of beef producers on both sides of the border so we can overcome this problem and be able to meet our real competition, which is the rigid and protectionist attitude of Europe, Japan and others?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the problem with respect to the promotion of greater integration is that Japan has been very clear that it does not want that integration. As a result, the Secretary of Agriculture in the United States has been unwilling to move toward further integration, when in fact what would seem to be happening is an isolation of Canadian cattle so that they can be easily distinguished from American cattle.

Senator Grafstein: I assume, then, that as parliamentarians, we should pursue the parliamentary congressional route to see if we can circumvent the opposition to this idea that occurs in the executive of the United States.

Senator Carstairs: Honourable Senator Grafstein has an excellent suggestion. While I am on my feet, and I know the whole chamber would like to join with me, I believe we should recognize the work Senator Grafstein did this summer with respect to the SARS concert, which was a significant achievement.

Hon. Senators: Hear, hear!

Hon. Leonard J. Gustafson: Honourable senators, I have a supplementary question.

The minister's province alone has indicated that it might have to slaughter thousands of animals. That is a drastic step to be taken in a world that needs food. I just heard today that Japan imports about 90 per cent of its meat from the U.S. and, of course, that market is being protected both by the U.S. and by Japan. This is why I agree with Senator Grafstein that members of Parliament, senators and congressmen must get to the bottom of this problem because it will not be solved until the border is opened to live beef. Sixty-five per cent of our beef crosses that border and we cannot eat it ourselves. We can bring in small measures to help, which is fine because they are needed. There are areas of drought where the ranchers need feed to keep these animals alive until they can market them.

Honourable senators, I would emphasize again and I would ask that the leader do her utmost in cabinet to put forth these ideas.

Senator Carstairs: As honourable senators know, I bring forward to my colleagues in cabinet the ideas presented by senators, particularly when they are thoughtful, which are the ideas that frequently come from the other side of this chamber, and often even more so from our side of the chamber. I will make the Minister of Agriculture aware of the honourable senator's suggestions on this particular file.

VISITORS IN THE GALLERY

The Hon. the Speaker *pro tempore*: I wish to draw the attention of honourable senators to the presence in the gallery of Chief Roberta Jamieson, Chief of the Six Nations of the Grand River, in Ontario. She is a guest of the Honourable Senator Gill.

Also, honourable senators, I should like to draw your attention to the presence in our gallery of our former colleague the Honourable Senator William Kelly.

Welcome back.

[Translation]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table in this House four delayed answers to oral questions.

Two are delayed answers to oral questions raised in the Senate by the Honourable Senator Oliver on May 15 and June 19, 2003, concerning the World Wide Web and enforcement against spam, and the West Nile virus. The third one is in response to an oral question raised in the Senate by the Honourable Senator Nolin on June 16, 2003, concerning the appointment of an ombudsman to review legal errors. The fourth one is in response to an oral question raised in the Senate by the Honourable Senator Stratton on June 9, 2003, concerning the theft of personal information and prevention safeguards.

INDUSTRY

WORLD WIDE WEB—ENFORCEMENT AGAINST SPAM

(Response to question raised by Hon. Donald H. Oliver on May 15, 2003)

Industry Canada is considering steps to deal with abusive electronic commercial e-mail, commonly referred to as spam. The government recognized some time ago that the considerable increase in the volume of unsolicited commercial e-mail was creating an important problem, for consumers, for businesses, and potentially for the future of the Internet.

In January 2003, it issued a discussion paper seeking comments from key industry and consumer groups. Industry Canada is now analyzing submissions from these groups. As expected, some have called for new legislation. Others recognize that domestic laws alone cannot deal with spam, which has become a global problem. They agree that only a multi-pronged approach that would, among others, include technology, enforcement of existing laws, better industry practices, international cooperation and consumer education, can succeed in curtailing e-mail abuse.

Industry Canada now hopes to bring together these key stakeholders, in the near future, to discuss and agree on common approaches which could include, if required, new legislative action. It must also be recognized that, over the last few months, Internet industry stakeholders have taken aggressive steps to curtail the volume of unsolicited commercial e-mail. For example, the most important providers of free e-mail service have adopted stricter policies to limit the number of e-mails sent by their subscribers. A number of major Internet service providers have also launched aggressive filtering programs and have taken legal action against e-mail abusers.

The Department is following closely and analysing legal as well as regulatory developments in the United States and the European Community to determine their effectiveness. Industry Canada will also be participating in international discussions in the OECD and APEC on common approaches to address the scourge of spam.

HEALTH

WEST NILE VIRUS—STOCKPILING OF BLOOD—
SCREENING TEST—SUSPECTED CASE IN
WALPOLE, ONTARIO—BLOOD DONATIONS IN REGION

(Response to question raised by Hon. Donald H. Oliver on June 19, 2003)

Stockpiling of Blood-Screening Test

Blood establishments do not intend to test these products before they are released. Blood establishments have been collecting, keeping and stockpiling products from

February 2003 to May 2003, outside the mosquito season. This was initiated in order to secure sufficient supply to use should cases of human West Nile Virus appear prior to the implementation of screening of all donations for West Nile Virus. As a result no testing of these products was deemed necessary at the time.

Suspected Case in Walpole, Ontario — Blood Donations in Region

Health Canada has confirmed with the Canadian Blood Services that there were no blood clinics held in the area where the boy resided during this period.

JUSTICE

APPOINTMENT OF OMBUDSMAN
TO REVIEW LEGAL ERRORS

(Response to question raised by Hon. Pierre Claude Nolin on June 16, 2003)

Before answering the question concerning the appointment of the Special Advisor, it might be useful to clarify a few points concerning the criminal conviction review process. The enactment of Bill C-15A, and specifically the new amendments to the *Criminal Code* (696.1-696.6) concerning the criminal conviction review process, provided the Minister with new powers, including the powers of a Commissioner under Part 1 of the *Inquiries Act* to issue subpoenas and compel witnesses to testify.

The authority to issue subpoenas and compel witnesses is the only authority that the Minister can delegate to someone else. The Minister cannot delegate his decision-making authority in the criminal conviction review process to anyone else. He can and has appointed agents to conduct investigations on his behalf, as was the case when he appointed retired judge Mr. Justice Fred Kaufman, to conduct an investigation into and make recommendations concerning the application submitted by Steven Truscott. He can also delegate to the agent the subpoena powers mentioned above. However, the ultimate decision to grant a remedy pursuant to s. 696.1 to 696.6 rests with the Minister.

One of the non-legislative changes to the criminal conviction review process included the commitment to appoint a Special Advisor to the Minister. The Special Advisor, not to be confused with the role of an agent conducting the initial investigation, would make recommendations directly to the Minister concerning all applications for review. This person requires very particular knowledge and competencies, and the Minister wants to be certain that he finds the right person for the position. Given the importance of the position, the Minister wants to ensure that he makes the right choice and would like to take the necessary time to do so rather than hurry the decision.

CANADA CUSTOMS AND REVENUE AGENCY

THEFT OF PERSONAL INFORMATION—
PREVENTION SAFEGUARDS

(Response to question raised by Hon. Terry Stratton on June 9, 2003)

This confirms that the employee in question is no longer with the Canada Customs and Revenue Agency (CCRA). In addition, the CCRA has performed a review of its security systems. The following areas have been reviewed and the following measures will be taken where necessary to further reduce the likelihood of a similar incident occurring in the future.

- The CCRA has a full range of security policies, procedures and guidelines governing all potential security situations and incidents. These are currently being reviewed to ensure they remain adequate in light of this incident.
- A Personnel Security Screening policy is in place, which includes background checks, prior to the hiring of any employee. This policy is consistent with the Government Security Policy.
- All CCRA employees must adhere to both the Code of Ethics and Conduct and the Conflict of Interest Guidelines, and any employee who violates these may face disciplinary action. The CCRA will be expanding security awareness to increase employees' understanding of the associated policies and of their roles and responsibilities.
- The CCRA tracks its employees' accesses to taxpayer accounts through an audit trail system (ATS). Although the ATS can produce reports dating back several years, an On-Line Audit Trail System (OATS) has recently been re-designed to allow managers to proactively review an employee's system activities. Depending on the results, the OATS system may serve as a precursor to an in-depth audit trail should an employee's activities be suspect and require further investigation.
- CCRA employees are provided with access control mechanisms such as a user identifier, a password and profile(s) in relation to their system accesses. These accesses are provided on a "Need To Know" basis and authorized by the immediate supervisors. A "Computer Information Access Authority" form is signed by each employee recognizing that he/she is informed of his/her responsibilities and cognizant of the CCRA's policy on system access. This form is currently being re-designed to ensure that diverse accesses are included in the updated version.
- Upon an employee's change of responsibilities, profiles are reviewed and modified accordingly. The CCRA is currently reviewing this procedure to ensure that such activities are carried out on a more frequent basis.

- The CCRA has a plan that includes reducing the number of privileged users, and single authority control of user approvals.
- The CCRA is further expanding the Fraud Prevention activities to include pre-selected system access areas within the Agency.
- A review of all Internal Audit Reports completed during the past year is being conducted to ensure that findings related to system security are being implemented as documented.
- The CCRA takes very seriously its obligation to protect taxpayer information and investigates all allegations or actual cases involving misuse of such information.

ANSWERS TO ORDER PAPER QUESTIONS TABLED

JUSTICE AND ATTORNEY GENERAL—
CANADIAN HUMAN RIGHTS ACT

Hon. Fernand Robichaud (Deputy Leader of the Government) tabled the answer to Question No. 110 on the Order Paper—by Senator Stratton.

INDUSTRY—PATENT ACT

Hon. Fernand Robichaud (Deputy Leader of the Government) tabled the answer to Question No. 116 on the Order Paper—by Senator Stratton.

JUSTICE AND ATTORNEY GENERAL—
ACCESS TO INFORMATION ACT

Hon. Fernand Robichaud (Deputy Leader of the Government) tabled the answer to Question No. 124 on the Order Paper—by Senator Comeau.

JUSTICE AND ATTORNEY GENERAL—ALTERNATIVE
FUELS ACT

Hon. Fernand Robichaud (Deputy Leader of the Government) tabled the answers to Questions Nos. 65 and 66 on the Order Paper—by Senator Kenny.

INDUSTRY—ALTERNATIVE FUELS ACT

Hon. Fernand Robichaud (Deputy Leader of the Government) tabled the answers to Questions Nos. 78, 79 and 80 on the Order Paper—by Senator Kenny.

FOREIGN AFFAIRS—ALTERNATIVE FUELS ACT

Hon. Fernand Robichaud (Deputy Leader of the Government) tabled the answer to Question No. 86 on the Order Paper—by Senator Kenny.

JUSTICE AND ATTORNEY GENERAL—
ALTERNATIVE FUELS ACT

Hon. Fernand Robichaud (Deputy Leader of the Government) tabled the answers to Questions Nos. 95, 96 and 97 on the Order Paper—by Senator Kenny.

JUSTICE AND ATTORNEY GENERAL—
ALTERNATIVE FUELS ACT

Hon. Fernand Robichaud (Deputy Leader of the Government) tabled the answers to Questions Nos. 105 and 106 on the Order Paper—by Senator Kenny.

[English]

ORDERS OF THE DAY

SPECIFIC CLAIMS RESOLUTION BILL

THIRD READING—MOTION IN AMENDMENT— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Robichaud, P.C., seconded by the Honourable Senator Rompkey, P.C., for the third reading of Bill C-6, to establish the Canadian Centre for the Independent Resolution of First Nations Specific Claims to provide for the filing, negotiation and resolution of specific claims and to make related amendments to other Acts, as amended,

And, on the motion in amendment of the Honourable Senator Watt, seconded by the Honourable Senator Gill, that the Bill, as amended, be not now read a third time but that it be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

Hon. Thelma J. Chalifoux: Honourable senators, I rise today to speak to the motion in amendment of the Honourable Senator Watt. Senator Watt has suggested that since Bill C-6 raises certain legal issues, it should be referred to the Standing Senate Committee on Legal and Constitutional Affairs. It was also suggested that because of these legal implications, the Standing Senate Committee on Aboriginal Peoples was ill-equipped to examine this bill. There was even a suggestion on page 1755 of the *Debates of the Senate* that all Aboriginal concerns should be referred to the Standing Senate Committee on Legal and Constitutional Affairs and no other. I am certain it will not come as a surprise to any senator that I do not share his or her view.

• (1530)

It is a fact that the Standing Senate Committee on Legal and Constitutional Affairs has an abundance of members with legal expertise. However, it would be misleading to suggest that that committee holds a monopoly on this expertise.

I understand the basic premise behind this motion to be that the Standing Senate Committee on Legal and Constitutional Affairs must review all legal issues. This premise is faulty on two grounds.

First, we must recognize that the Legal and Constitutional Affairs Committee does not have a monopoly on this expertise in the Senate. For example, Senator Austin, who is the sponsor of this bill, is a highly qualified lawyer who sits on the Standing Senate Committee on Aboriginal Peoples but not on the Standing Senate Committee on Legal and Constitutional Affairs. Furthermore, Senator Sibbeston is an Aboriginal lawyer who has also served as the government leader in the Northwest Territories.

Most significantly, however, I reject this motion for a second reason. I cannot accept that only lawyers are qualified to examine bills in committee.

Some Hon. Senators: Hear, hear!

Senator Chalifoux: To again take the Standing Senate Committee on Legal and Constitution as an example, that committee has very able members who are not lawyers. Indeed, two distinguished former chairs of that committee were not lawyers, although they may have earned the equivalent of a legal degree by the time they left that committee. To accept that, to deal with the bill in committee, one must have legal training could lead to the suggestion that those of us in this chamber who do not have formal legal training are incapable of fulfilling our legislative function. We all know that this is not the case.

Whether we are doctors, lawyers, artists, activists, business people or athletes, we all bring our unique experience and perspective to our work. That is why we were summoned to this place.

The diversity of experiences and backgrounds in the Senate strengthens rather than weakens our ability to deal with legislative proposals. That is also why, to assist in our work, we are supported by the Library of Parliament, whose capable research staff provides us with the knowledge that our own formal training and experience may not.

In addition, when examining issues and legislation, our committees hear from experts who can further enhance our understanding of the issues at hand.

Thanks to these tools, we are able to develop what I consider to be a profound understanding of the legal and other issues at play in legislation. Having said this, I must admit that there may be cases where it may be appropriate to refer certain specialized legal or constitutional issues to the Standing Senate Committee on Legal and Constitutional Affairs. However, I do not believe that is necessary in the case of Bill C-6; nor do I believe that a compelling case has been presented for doing so.

In his comments on Bill C-6, Senator Watt suggested that the legislation as amended by the Standing Senate Committee on Aboriginal Peoples was unworkable for four reasons: the financial cap for compensation; the question of the time limit on the minister's decision to negotiate; the scope of the claims; and consultations with respect to nominations to the tribunal.

The Aboriginal Peoples committee considered all four of these issues. In many cases, these items were addressed through amendment or observation. I will not get into the merits of these concerns at present, as they do not speak to the motion in amendment. However, the key point is that not one of them raises a particular or specialized, legal or constitutional issue that requires a subsequent examination by the Standing Senate Committee on Legal and Constitutional Affairs.

It is also important to remember that the Aboriginal Peoples committee spent a great deal of time hearing from the Assembly of First Nations, First Nations organizations from across the country and independent experts, as well as requesting written submissions from all interested groups. Thus, it is doubtful that any new information would be received through further hearings.

The issue of the inclusion of a non-derogation clause was then raised. I must admit that I agree with Senator Watt and other senators who have spoken on this issue, that this is indeed an important question and one that, while having to do with Aboriginal issues, does concern a particular and specialized constitutional issue that should be examined thoroughly by the Standing Senate Committee on Legal and Constitutional Affairs. However, that alone is not grounds for delaying the passage of Bill C-6, while the question of a non-derogation clause is resolved.

Honourable senators, this motion in amendment is about delay. If Senator Watt has concrete amendments he wishes to propose to this bill, let him propose them here in the Senate, as is often our practice during debate at third reading. Let the amendments be debated and voted upon by all senators and let us resolve these issues.

Is Bill C-6 perfect? I wish I could say that it is. The only thing I know for sure is that the status quo is unacceptable. Rather than waiting for a panacea, we should move forward, not backward, as Senator Watt has suggested.

I encourage all honourable senators to vote against the motion in amendment and to deal with Bill C-6, as expeditiously as possible.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, would the honourable senator, who has just spoken remind us of the page in the *Debates of the Senate* to which she referred?

Senator Chalifoux: I referred to page 1755.

[Translation]

Hon. Aurélien Gill: Honourable senators, I agree with Senator Chalifoux when she praises the committee members, whose expertise in the legal field is obvious.

I would like to remind Senator Chalifoux that among the witnesses heard by the committee, there were also chiefs who were legal counsel. There were people who came to give evidence and state their opposition to the bill. They told us clearly that this bill would have to be amended if we were ever to pass it. These amendments have direct relevance to the problems encountered

by the current land claims commission, including the time it takes for the Department of Indian Affairs and Northern Development to render its decisions on the claims; it takes a great deal of time, and there are even some cases where no response was ever made to land claims. Are there time limitations in this bill that would prevent it from being considered and dealt with by the Minister of Indian Affairs, so that in 50 years we will not find ourselves still facing the same land claims?

I would like to remind Senator Chalifoux that the Senate Standing Committee on Legal and Constitutional Affairs has a special competency. This bill refers to an independent tribunal. It mentions the appointment of judges and touches on land claims, the Constitution, the Royal Proclamation and all of these aspects. Why are we hesitating to refer this bill? If we can truly say that this bill is a good one, why be afraid to refer it to people who have special competency in dealing with these issues?

[English]

Senator Chalifoux: Honourable senators, I will repeat the last paragraph of my intervention: Is Bill C-6 perfect? I wish I could say that it is. The only thing I know for sure is that the status quo is unacceptable.

We must look forward and have a vision. This is a work in progress, in my opinion and in the opinion of some of the other presenters who met with us. It is the beginning of the formation of institutions for self-government for the First Nations people. There is a vision here.

• (1540)

I totally agree with Senator Gill that it is not perfect, but it is the beginning of work that will take years, and we must begin somewhere. That is why I do not support the motion in amendment.

[Translation]

Senator Gill: Honourable senators, I understand that we need to have a "vision." I have heard the word "vision" quite a number of times. You will agree that the majority of witnesses appearing before the committee were against the bill or wanted amendments. I do not think that you can contradict me on that.

If we want to have a "vision," why not have a vision with the people directly affected by this matter? Why not have a "vision" with the people in the communities, those who have an overwhelming number of problems?

Why not begin with a frank and open dialogue with the people involved? What do we have to hide? I would like to know why it is not done in a clear and transparent way, with the Aboriginal peoples involved, their chiefs and our leaders.

[English]

Senator Chalifoux: It is interesting that Senator Gill mentioned that because, I had a meeting on Sunday with people from many reserves in Saskatchewan who are dealing with specific claims. They want this bill passed so that they can address the issue. The Department of Indian Affairs and Northern Development

has taken a very bureaucratic approach. They believe that passage of this bill will give them an opening to renegotiate a serious claim made concerning mismanagement in the early days.

I cannot support Senator Gill's statements. I know that many witnesses who appeared before our committee did not support the bill, but many did, and many more indicated their support by way of written submissions. They see it as a framework for the beginning of an institution that will assist in the third order of government.

Hon. Gerry St. Germain: Honourable senators, with all due respect, I believe that the vision that is portrayed is driven by Senator Austin. He drove the Nisga'a bill and he is driving this bill. I am not naive. I know politics and I know how the system works. He is very credible; he is a great senator from British Columbia; and he is a lawyer of renown.

One Speech from the Throne made reference to the fact that we were going to address the needs of our native peoples and deal with their vision. This bill may apply in situations where the cost of settling certain claims may be under a certain amount, but specific claims in the area around Penticton will never be solved because of the cap and other restrictions contained in this bill.

Why am I being inundated with letters from native leaders and groups from across this country, if the bill is as good as the honourable senator says it is? Why are we not, for once, taking a little more time to do what is right for the native people? Instead of doing things to our native people, let us do things for them.

I am not picking on Senator Chalifoux. She is an honourable senator. I know she works, with the best of intentions, for our native peoples. However, the fact remains that this bill, if passed, will not work. This is tinkering with a major problem that has been festering for years. I am not being partisan; I am referring to the record of all governments.

The Hon. the Speaker *pro tempore*: I regret to inform you that your allotted time has expired. Is the honourable senator requesting leave to continue?

Senator Chalifoux: Yes. May I have leave to continue?

The Hon. the Speaker *pro tempore*: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Chalifoux: Senator Austin may have a vision, and he may be a wonderful colleague and a most respected citizen of this country, but I have been working on land claims since the 1970s. I, too, have experienced frustrations. I have seen members of my own family in terrible situations because the Department of Indian Affairs and Northern Development made bureaucratic decisions that hurt our people, including my own children and grandchildren.

I said in my remarks that although, I wish this bill were perfect, it is not perfect, but it is a beginning. We must consider exactly what we are doing with this bill. This is a framework, a beginning. We have two choices. We either go forward or we go backward and maintain the status quo under which the Indian Affairs Commission controls us, as it has done for the last 25 or 30 years.

Hon. Pierre Claude Nolin: Honourable senators, I have a question for Senator Chalifoux.

When she examined the mandate and the composition of the commission and the tribunal, did the honourable senator also consider the independence of the tribunal?

Senator Chalifoux: Yes.

Senator Nolin: Is she satisfied that the individuals who will wield the power of the tribunal will be independent in their decision making?

Senator Chalifoux: Honourable senators, Senator Austin will be speaking to this. However, if you read the amendments that we have proposed to this bill, you will better understand the situation. I say that only because others would like to speak to this bill.

Hon. Nick G. Sibbeston: Honourable senators, I wish to be very clear. To support the motion to refer the bill to another committee would be to vote non-confidence in the work of the Standing Senate Committee on Aboriginal Peoples. I do not know that colleagues want to do this. Because someone is not happy with or satisfied with the work of a committee, a motion has been moved to refer the work of that committee to another committee. In my view, if the motion is passed, it will jeopardize our committee system. If this is allowed, a committee's work may never be finished, as it could be referred from committee to committee without end.

I am most concerned about this motion. In my view, the proper approach to deal with this is to move amendments to the bill. That is how we should deal with this bill.

The committee worked very hard. It is heartening to see Aboriginal peoples appear before a Senate committee. In my view, the role and status of the committee has been increased because Aboriginal people came to the Senate for justice, to have their concerns placed before a group of people who they think can respond to them. It is a very good system.

I come from the Northwest Territories where Aboriginal people are dealt with fairly.

• (1550)

I am a bit concerned about the situation in our country because it seems that the Senate is the last place for Aboriginal peoples to go. Why not have the House of Commons deal with Aboriginal issues rather than have Aboriginals come to the Senate as a last resort in the hope that the Senate could fix all of their problems? I am concerned about that.

In his comments on Bill C-6, Senator Watt stated that his primary reason for referring the bill to the Standing Senate Committee on Legal and Constitutional Affairs was that the majority of issues relating to Aboriginal people, with which the Senate deals, are legal in nature. He also said that there is no legal expertise on that committee. That is not true because some of us are lawyers and we do have that expertise. We all have the same concern. Senator Watt does not have a more noble concern for Aboriginal peoples than the rest of us have. We are all concerned and are all trying hard to deal with the issue.

Honourable senators, the issue before us in this bill is not so much a legal and constitutional issue; rather, it is about setting up a process for dealing with specific claims of Aboriginal people — claims that come from unfulfilled treaties and other grievances arising from prior agreements. That is the issue. In Bill C-6, the federal government is setting up a process, a centre to deal with specific claims. Bill C-6 states: "...to establish the Canadian Centre for the Independent Resolution of First Nations Specific Claims..." Thus, the bill does not focus on a legal and constitutional issue but rather on the federal government's efforts to put in place a process to deal with the grievances and outstanding claims of Aboriginal peoples.

Honourable senators, our task is to see whether the proposed process in the bill will work. Senator Watt and I have the same concerns. We heard witnesses who came before the committee to express their views. While I think they recognize what the federal government is attempting to do, they stated that the bill did not go far enough and that the centre should be more independent, et cetera. Senator Watt and I pressed government officials and others to ensure that the proposed system would be as good and as effective as possible.

Senator Chalifoux, Senator Austin and I had the opportunity to meet with Minister Nault. We asked the minister what he was prepared to do to deal with all the concerns expressed by the witnesses, in particular the representatives of the AFN. I came away with the conclusion that the government was committed to doing something. It recognizes the shortcomings of the Indian Claims Commission and the current system under the Inquiries Act. The government is prepared to advance and put a system in place that could deal with specific claims. It was my feeling that the federal government was, indeed, committed.

The federal government, or any government, has a responsibility to deal with money — revenues from taxes and budgeting each year for expenditures — so that the government may operate. I came away with the impression that while Minister Nault was committed, as many of us are committed, to the amelioration and improvement of the lives of Aboriginal peoples, there is a budget consideration. I was persuaded that while the bill is good, it has certain limitations because the government is responsible and there is a limit on what it can do in a fiscal year.

I was persuaded that the process to be put in place — the commission, the tribunal and the centre — comprises a good first step. This is just the beginning of a process whereby the federal government will ultimately deal with all the specific claims in our

country. However, there will be a limit on the amount of money to be spent in each fiscal year for that purpose.

The concerns and the criticism deal with the independence of the tribunal. A small amendment was made whereby the minister would have to consult. There was a slight increase in the limit of each claim to \$10 million. Some minor adjustments and amendments were made that will improve the bill. However, the government is ultimately responsible for funding. I think that the government wanted to go into this cautiously to see how the new system, once put in place, would work. Once it is in place, then it would open up greater independence and more funding each year so that the claims could be dealt with.

I was satisfied that the minister was sincere, that this process was a very first step and that eventually the specific claims process would be more in tune with and more satisfactory to all Aboriginal peoples in the country.

I take the practical approach to this bill. I have ideals, hopes and aspirations for Aboriginal people that all of our claims can be resolved. I envision the government setting up a first step toward ultimately achieving this goal. I am supportive of the government's efforts regarding the provisions of the bill, and I know that things will improve. There is provision in the bill for the minister to consult with Aboriginal people between three to five years from now. I cannot help but believe that things will continually improve.

The committee made some observations that will hopefully guide the federal government and show the interest and concerns of senators. I hope that honourable senators will accept what I have said, because we have tried hard to do our best, and accept the work that the committee has done and defeat the motion that is before us.

Hon. David Tkachuk: Senator Sibbeston, in respect of the meetings that you, Senator Chalifoux and Senator Austin had with Minister Nault, were those undertakings also made to the committee when the minister appeared before it?

Senator Sibbeston: Honourable senators, I can advise that Minister Nault appeared before the committee fairly early in the process. Our meeting with him was at the end of the consultation process. Minister Nault's response spoke to the fiscal responsibility of the government and whether the government could cope with the financial demands. I think the federal government generally recognizes that there are specific claims it will deal with that will involve billions of dollars. There is no denying that the federal government will ultimately have to deal with these claims. It is a question of whether it can afford to do so and whether it can set up a system to deal with the issue over a period of time, rather than trying to process all the claims at once and possibly having to pay out billions of dollars.

• (1600)

There was no undertaking. It was just a matter of Mr. Nault stating the government's position and indicating the extent to which he felt the government could go at this stage.

Senator Tkachuk: It seemed to me, from what the honourable senator said earlier — I do not want to put words in his mouth, I just want to understand the process — that he had some concerns that he expressed to the minister. I am not sure what the concerns were of the other two senators who were at the meeting, but I understand the honourable senator had some concerns and that what the minister said, allayed those concerns.

Did the honourable senator then ask the minister to come back to committee and put this testimony on the record? Had he done that, perhaps Senator Watt's concerns would have been addressed.

Senator Sibbeston: Honourable senators, the process was that, as a result of our meeting — and I must say I was not the main spokesperson, Senator Austin, as the sponsor of the bill, met with Minister Nault and other officials — we were informed that the minister was prepared to consider some amendments dealing with consultation. This included raising the cap from \$7 million to \$10 million. A few other minor amendments were made.

That is what I got from the meeting with Minister Nault. We pressed them, just as Senator Watt would have, to go as far as possible. However, I got the impression that there was a limit on what the federal government was prepared to do. He did state — that, at this stage, the federal government was only prepared to go so far.

Senator Tkachuk: As I understand the procedure, it was a two-committee process. Parliamentarians were meeting to consider Bill C-6, and there were meetings going on between the three of you and perhaps others. There was another committee hearing testimony other than the testimony we heard.

Senator Sibbeston: My colleague knows this is a political process.

Senator Tkachuk: I know that.

Senator Sibbeston: We were pressing the minister to come through with as many amendments as possible. It was not our intention to subvert or undermine the committee.

The Hon. the Speaker *pro tempore*: I am sorry to interrupt, but I must advise that your time has expired.

Senator St. Germain: May we ask for leave?

The Hon. the Speaker *pro tempore*: Is the honourable senator asking for leave?

Senator Sibbeston: No.

Hon. Jack Austin: Honourable senators, I am pleased to join the debate on the amendment proposed by Senator Watt. I think the summer has distracted most of us from the details of this bill, and from the details of its process. I could refer you to my speech on second reading, which details all these issues. However, I should like to summarize the key issues that have arisen. In so doing, I am adding to the comments of my colleagues, Senator Chalifoux and Senator Sibbeston.

As many senators know, there is a bi-partisan history to this proposed legislation. It began with an Order in Council in 1983 setting up an Indian claims review process, and the president of the University of Regina, Lloyd Barber, was the first chair of this particular process. It was to assist Aboriginal communities in Canada to prepare their claims against the federal Crown. The Department of Indian Affairs and Northern Development funded that particular tribunal, the Indian Claims Tribunal.

Honourable senators, I want to be clear about the definition of "specific claims" to which Senator Sibbeston referred. This is simply and clearly limited to claims by Aboriginal communities against the federal Crown under treaties or legal agreements. We are not talking about treaty negotiations, new treaties and new obligations to be created. This process in 1983, and right up to this time, deals with legal claims. It does not prevent, and has never prevented, Aboriginal communities from going to court to pursue their rights under the laws of Canada.

It was set up to be a summary process, one that did two things principally: one, cost efficient because we were setting up a negotiating process paid for by the Crown; and two, involve the facilitation of the assembly of the claim in the process, so that there was a working toward defining what the claim was all about. It was not set up to be an adversarial process, but a process of accommodation.

As I said in my speech at second reading, the government of Prime Minister Brian Mulroney enhanced the Indian claims process by adding financial resources and personnel resources and expanding somewhat the original mandate. This was done in 1991, so there was an eight-year experience of the working of the original process.

Bill C-6 moves that process forward in two ways. These are very important to me, as someone who has been involved in Aboriginal affairs for much of my political life. The first is that it removes the control of the process from the Department of Indian Affairs. Up until now, whether under the Trudeau Order in Council or the Mulroney Order in Council, the process was by way of Order in Council. It was dealt with by people who were public servants working in the Department of Indian Affairs. They were under the control of the minister, and the minister reported to Parliament.

This legislation sets up a body that is independent of the minister. It reports to Parliament through the minister, but he no longer has the executive direction of this body, should this chamber agree to pass this bill. The body — the centre, as we call it — has two independent functions within it. One is a function whereby the body continues the original function of addressing itself to the research, the gathering of facts, and conducting a legal analysis on behalf of the Aboriginal communities.

The Aboriginal communities can then decide whether or not they want to put their claim before a tribunal for a final decision. There is no requirement on them to do so. If, after the facts are put together, they think they would be better off to go before a court, they can do that. However, if they wish to go before a tribunal of expertise, then there is such a tribunal, which is independently appointed and at arm's length from the government and arm's length from the first section, which is the preparatory section.

That is the whole system. A good deal more money will be put into the administration of this system. I want to be clear that the minister has said to us directly that the people involved at the adjudication level will not be allowed, if they decide to resign as a part of the judicial function, to go back into the Department of Indian Affairs. That is one amendment we obtained from the minister.

Four amendments were proposed to the bill in committee. The complaints of those who told us that they did not like the bill had nothing to do, in my opinion, with the concept of the proposed legislation.

• (1610)

There were complaints about some details. However, the principal complaints of those from the Aboriginal community who came before us were based on an outstanding advocacy by the AFN under its former leader, Matthew Coon Come, in broader disputes with the federal government.

Honourable senators will be aware of Bill C-7, which is a bill in the other place that is designed to establish rules for internal governance by Aboriginal communities, and to which there was much objection. I understand that this will not now be a priority for the government.

There is another bill in this trilogy, Bill C-19, which sets up fiscal terms of reference under which, Aboriginal funding has to be governed. I am not sure where that legislation stands.

There was a policy in the previous AFN, that all of the legislation would be opposed, whatever its merits, until the principal political issues between the federal government and the AFN of the day were resolved. That is like saying, "Unless we hit a home run, we will not play this ball game any longer."

One of the guiding premises of our committee was to support an incremental process in the affairs of the Aboriginal community. Certainly this bill, as amended, is a desirable process.

I am personally sympathetic to Senator Watt and Senator Gill, the sponsor and co-sponsor of the amendment, in that there are a number of issues that remain unresolved. However, life is rarely such that you get the entire deal or do not have any part of the deal. I am satisfied that, in the main, the witnesses who came before us, while unhappy in the broad sense, want this bill to proceed.

Honourable senators, one of the complaints was that the financial cap for compensation, which could be imposed by the tribunal, was limited to \$7 million. In our amendment, we have moved the cap to \$10 million. A number of Aboriginal communities said this was not sufficient because their claims exceeded that amount.

I want honourable senators to understand that, for the reason Senator Sibbeston has given us this afternoon, the Crown has to protect its *fiscus*. It has a budget for this as well as its other spending.

Any Aboriginal community can submit a claim of whatever size for preparation and then decide to go to the court. If the claim comes under the \$10-million cap, there would be a very quick summary judgment from the tribunal under Bill C-6.

With respect to the minister's decision to negotiate, the bill requires him to report every six months, if he has not entered into negotiation.

Senator Stratton: Once.

Senator Austin: Under the current law, he can be silent, and no one can hold the minister to account. Under the new law, he would have to explain why he has not proceeded to negotiate.

Nomination to the tribunal was a large subject. The Assembly of First Nations and its representatives want co-powers of appointment to the tribunal. Their argument is that the tribunal would not be independent unless they agree to whoever is appointed. They want at least the power of veto with respect to appointments. This is not a power that the Government of Canada is prepared to confer on any non-governmental body, no matter where they come from.

We put into the bill an obligation to consult, which was not there, before appointments are made. As Senator Sibbeston said, we also put into the bill a confirmation that this bill, three years after it has the force of law, must be reviewed again with the Aboriginal community. In other words, there will be three years of experience, and then the Crown must go back to the Aboriginal community and consult again and say, "How is it working? Can we improve it? Are more things that we could do? Is there anything we should not do?"

Honourable senators, that is an outline of the legislation. It is an advance. The biggest advance of all is that it removes the entire process from the Department of Indian Affairs. It sets up an independent and much more autonomous operation. It will be a separate line item in the Estimates rather than simply something lost in the budget.

We are increasing the independence. We are bringing together a group of people drawn from the government and from the Aboriginal community, as well as creating a process of conciliation and/or adjudication.

If trust can be built based on this small piece of legislation, then the greater issues — and there are greater issues between the federal Crown and the Aboriginal community — can be assisted substantially by the practice that we will see under this legislation. I recommend that the proposed amendment not carry.

I want to say again that there is no basis whatever, as Senator Sibbeston said, for voting non-confidence in the work of the Standing Senate Committee on Aboriginal Peoples. The committee did its work with extreme competence, in my opinion. Should the Senate ever decide to send the work of any committee to some other committee, it would have to be for very special reasons, or the committee system would fall into difficulty.

Hon. Terry Stratton: The honourable senator made a statement that the minister had to respond every six months. Is there an amendment that speaks to that assertion? My understanding was that the minister had to respond in the first six months but, thereafter, there was no end date as to when the decision had to come down. Could the honourable senator expand on that?

Senator Austin: Honourable senators, there is no end date as to when the minister has to decide whether to negotiate. I agree with that.

It is my impression, and I may be wrong, that every six months he would have to make some statement that he has the matter under review or consideration. I will check. If I am wrong, I will certainly come back and say so.

Senator Stratton: I appreciate that. It has been a while, but my understanding was that the minister must do so only within the first six months. We have not yet addressed in the amendments that there is no end date as to when the minister must come to a conclusion with respect to any claim. He could string this out for a long time, if he so chose.

Senator Austin: The honourable senator is correct. There is no way to compel the Crown to cut a deal, nor is there any way to compel any Aboriginal community to cut a deal. It is a negotiation.

Hon. Rose-Marie Losier-Cool (The Hon. The Acting Speaker): I am sorry to interrupt, but Senator Austin's time has expired. Is the honourable senator asking leave to continue?

Senator Austin: Yes.

The Hon. the Acting Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator St. Germain: Honourable senators, I hear what Senator Austin is saying. There is not much with which one can disagree.

One could disagree with what has been projected. We are still being inundated with correspondence supporting the request of Senator Watt. When people like Senator Watt and Senator Gill place something before us, they do not do it frivolously. They have not done it frivolously in the past. It is serious. There is a message here.

The message, Senator Austin, is that these specific claims, from my understanding, and correct me if I am wrong, are wrongs that have been imposed on our Aboriginal people.

now the band must go through the specific claims process to get the lands back. These are lands that belonged to them.

Honourable Senator Sibbeston says the government cannot afford to give these people back what it had originally given them. That is exactly what he is saying, because the government does not want to settle the claim. The government has taken the land away from them and says it cannot afford to pay them now.

We always have our native people grovelling at the door of government. It does not matter whether it is Trudeau, Diefenbaker, Mulroney or Chrétien.

Senator Stratton: Diefenbaker gave them the vote.

Senator St. Germain: He gave them the vote, but he did not give them their land back.

My concern is when you say that they will not get the whole deal. This issue is not resolved because, if it were, we would not have all these native groups contacting us. I do not see this as a partisan issue. It deals with a group of people in our society that has been beat up from the day that the European men and women came to this land, and possibly people from other continents. Does Senator Austin not hear the message from these former chiefs. Does he not hear what they are telling him?

Senator Austin: Honourable senators, listening to Senator St. Germain reminds me of another of our B.C. colleagues, former Senator Len Marchand, who once said that in his view, the Aboriginal community should have re-examined their immigration policy.

Nothing said here by anyone suggests that anything we are saying or any views we hold are frivolous. I recognize that there are serious divisions here about serious questions. I am saying that, in my view, Senator Watt is representing a political view that this legislation should not pass until there is a total settlement with the Aboriginal community on the other issues that I mentioned. I do not share that view. I think we should move forward with this legislation. I believe it is very good legislation.

The other part of Senator St. Germain's question or representation relates to an assumption. The assumption he makes in his comments is that the claims are justified, and justified claims are being denied. The process is to determine whether the claims are justified. If they are justified, the Crown will have a hard time denying recognition. However, just because a community makes a claim does not mean the claim is necessarily justified. That is something I would like the honourable senator to consider when he is giving thought to this process.

Senator Kinsella: Honourable senators, could the Honourable Senator Austin remind us whether Chief Phil Fontaine appeared during the hearings of the committee?

Senator Austin: Yes, he did.

Let us take Stewart Phillip and the Penticton Indian Band as an example. That band had treaty lands. The government came along during wartime and took possession of those lands, and

Senator Kinsella: Subsequent to the meeting of the committee, the Assembly of First Nations elected a new executive. Chief Fontaine is now the head of the AFN. I am wondering whether we can be satisfied that the view of the AFN is properly understood, given the time that has elapsed and that there was a democratic election held and a new executive chosen. I am wondering whether that circumstance may colour the situation to the extent that perhaps at least we should hear from the new executive of the AFN.

Senator Austin: Honourable senators, I believe that the issues will not change and that Mr. Fontaine's position in his political regime will not change much either. I do not in any way favour the report of this committee being sent to another committee, and I do not know whether Senator Kinsella is taking another view. He is shaking his head, so I take it he agrees it should not be sent to another committee.

Senator Kinsella: On that point, I have the fullest confidence that all standing committees of this house, that are seized with an order of reference do competent work. I know that from time to time, there may be special cases in which this house would like to have the view of more than one committee. It seems to me, if my recollection supports me, that at one point, we actually referred a bill to two committees. It was an unusual practice, but we did it. I asked the question because consultation is so critical and there has been this change. We could hear from the executive of the AFN through the mechanism of Committee of the Whole if there are some outstanding issues.

I am not wanting to delay. Perhaps honourable senators opposite have some views as to what the parliamentary timeline might be this fall. It is important. I think Senator Chalifoux would have the concern that this bill not get lost. I have heard the suggestion that the Prime Minister might seek the consent of the opposition parties in the other place to shorten the calendar. The House of Commons is supposed to be sitting after the Liberal leadership meeting, and the calendar requires that it sit until December. Should the House leaders of the opposition parties over there not agree, I have heard the suggestion, the Prime Minister then might look at the idea of prorogation, all of which speaks to the serious matter of a number of bills that have to get through the parliamentary process before the Liberal leadership meeting, including appropriations, very importantly. I imagine that would get to the top of the heap very quickly. Therefore, I have a great understanding about the realism that is being expressed by our colleague, Senator Chalifoux and her not wanting to lose this bill. On the other hand, perhaps that is an argument as to why the Prime Minister, after the leadership convention, should do the honourable thing and go to Rideau Hall and turn in his resignation. Otherwise, we should come back to this house and not truncate our work so that important pieces of legislation such as this one can receive proper study. They should not be lost through the attempt to prorogue Parliament.

Senator Austin: I can only respond, honourable senators, to one part of Senator Kinsella's statement. While he was speaking to us, I was able to reflect on his question. I am satisfied that no leader of the AFN could accept the legislation, as it is, as being enough.

The cap is too low. The consultation does not include them with a veto over who is appointed and so on, all the key points on which the government and the AFN have a difference. Therefore, there would be no purpose in hearing the same arguments over again.

We propose to send the committee's amendments to the House of Commons with this bill.

• (1630)

It is the view of the Standing Senate Committee on Aboriginal Peoples, that this would be good and sufficient legislation at this particular time. I would urge this chamber to defeat the amendment. If Senator Watt wishes to propose a substitute amendment at third reading, we will debate it then.

Hon. Charlie Watt: Honourable senators, I wish to adjourn the debate in my name.

The Hon. the Acting Speaker: Honourable senators, I am advised that Senator Watt moved the motion in amendment, so he cannot speak to it. Senator Gill would like to speak.

[Translation]

Senator Gill: First, I wish to thank the honourable senators for the special attention paid to aboriginal issues. These issues are normally discussed rather summarily, without really looking at the situation. This may not be a popular issue, and there is certainly disagreement, but I do wish to extend my gratitude to the honourable senators for their attention.

Following the remarks by the Honourable Senator Austin, allow me to suggest that, if we are considering seeking the views of Aboriginal Chief Phil Fontaine, for instance, it would be good to also be aware of the resolutions passed by the national leadership.

I do not think it is appropriate to say that Aboriginal peoples always express opposition. In this respect, we ought to change our attitude. You have indicated that Aboriginal peoples are unhappy with the financial ceiling set and with several other things. It would seem to me, however, that with a little goodwill, it should be possible to achieve mutual confidence. We all share the same country, as well as its interests and our love for this country. We should not assume that Aboriginal people always express opposition, otherwise consultation becomes superficial and somewhat misleading. A country cannot be built on such assumptions. We must change our outlook.

The honourable senator suggested that the bill somehow takes control away from the Minister of Indian Affairs. Yet, he goes on to say that the bill allows us to meet with the minister every six months, to seek his views I presume. He also mentioned a tribunal whose members would be independently appointed. What does the honourable senator mean by that? By whom would the members of such a tribunal be appointed?

[English]

Senator Austin: It is no different, honourable senators, from the Minister of Justice asking for an Order in Council to appoint a judge. The Minister of Indian Affairs will ask the Governor in Council to appoint someone to be a judicial officer on the tribunal. Once that person is appointed, that is that.

As to the first point made by Senator Gill, I acknowledge that there is a lot of emotion involved here. I, too, am delighted that the Senate is the place — and it clearly is, in my opinion — where these issues of the relationship between the general community and the Aboriginal community are truly analyzed and we are truly involved and concerned in those issues, because sometimes they are dealt with, in the other place quickly, and without due consideration.

I would urge the chamber and Senator Gill to move to the third stage of a very long process of development of what could, at some future time, be a court to deal with broader Aboriginal claims than just specific claims. I do not know whether that is acceptable, but this is the trend line that may move the issue further.

As Senator Chalifoux and Senator Sibbeston said, a number of witnesses supported this bill conditionally. Others did not support the passage of the bill until other issues were resolved. We have met every condition that the first group of witnesses asked to us meet. It is a solid advance.

Again, I hope the Senate is ready to deal with Senator Watt's current amendment, and then move to third reading. If I may, I would ask to have the question put.

Senator St. Germain: Honourable senators, may I ask one more question of Senator Austin?

Hon. Senators: Agreed.

Senator St. Germain: Senator Austin is asking us not to adjourn the debate, but to deal with this matter now and that we deal with Senator Watt's amendments at third reading.

Is Senator Austin prepared to go back with Senators Sibbeston and Chalifoux to the minister and ask him to entertain those amendments? I am sure there are people in the audience here who are concerned about this because they have a huge stake in this particular legislation. Is Senator Austin truly willing to expedite and deal with amendments at third reading, and is he prepared to go back to the minister and state that? Some of us who are Aboriginals, or partly Aboriginal, or Metis, or whatever, are being called upon to try to bring the government to a position where they have to re-evaluate this particular scenario at this time. Is Senator Austin truly prepared to entertain amendments, or will we just go through the formality of hammering the bill through? If the honourable senator is truly prepared to entertain amendments at third reading, then that would be a different scenario.

Senator Austin: Honourable senators, the purpose of the amendments would be to allow those honourable senators who are proposing amendments to make their arguments to their colleagues in the hope that their colleagues would be persuaded by them. They would not persuade me, as sponsor of the bill, because I have sat for many hours, in fact days, in committee listening to all the points of view. I know that on four or five issues there will be no agreement between the parties at this particular time. The principal rule of government is to govern, and Senator St. Germain would know that, having been in cabinet. There is a time when you must rule and continue to govern. You cannot create a situation of stasis, a situation where you cannot do anything until there is total consensus. That is not the way our modern societies must be governed.

I am pleased to participate in a debate with Senator Watt, if he proposes amendments on third reading or if anyone else proposes amendments on third reading, and to go into each of the issues that we took up for hours and hours in the committee and examine them with honourable colleagues. That is as far as I believe this will go. I say again, that this would be, by far, better legislation than the existing regime. It is not everything that everyone wants, but it is a better regime for the Aboriginal people than the current situation provides.

Some Hon. Senators: Question!

• (1640)

Senator Kinsella: On the point of order, Senator Austin has moved the previous question. That is what we are dealing with. That is the matter before the house.

The Hon. the Speaker *pro tempore*: We cannot move the previous question through an amendment.

Senator Nolin: Honourable senators, I am sure I need not convince Honourable Senator Austin that good justice is the perception of fair justice. If we take into consideration the political environment of the last 30, 40 years in which those decisions have been taken, it is even more important that perception needs to be well understood. A perception of fair justice is even more important now.

I apologize for not reading the report. I have asked for the report with the amendment that is being proposed. However, in reading the original bill, I can see that both the tribunal and the commission will have part-time commissioners and adjudicators. That causes me to raise an eyebrow. We are to have independent individuals, who will make legal decisions. Let us read together clause 46, which deals with the powers of the tribunal. It states:

A panel of the Tribunal may

(a) determine any questions of law or fact in relation to any matter within its jurisdiction under this Act;

Having that in mind, and having in mind also that none of those decisions can be appealed, the only revision possible is to sections 18 and 28 of the Federal Court Act. Therefore it is only a judicial review, with part-time adjudicators and commissioners deciding at law. There can be no appeal. Clause 42(3) states:

Adjudicators shall not accept or hold any office or employment or carry on any activity inconsistent with their duties and functions as adjudicator.

Can the honourable senator explain what that means?

Senator Sibbeston: Honourable senators, I would raise a point of order. I see that we are getting into the substance of the bill, and the motion before us is to refer the matter to the Standing Senate Committee on Legal and Constitutional Affairs, so the debate should focus on that. We are out of order in discussing the subject and the provisions of the bill, rather than dealing with the question of referring the bill to committee.

[Translation]

Senator Nolin: Honourable senators, allow me to convince you. The question I have just asked lies at the core of the need to examine this bill in committee, which, I would venture to say, while not being the only one with experience of law and adjudication of law, does have some experience of it.

My question is on the independence of these quasi-judges. This question is central to the interest of Senator Watt's motion in amendment. If no one can convince us that these part time adjudicators will be independent, we must return this bill for a most serious examination by the Committee on Legal and Constitutional Affairs. The point of order is totally out of order.

The Hon. the Speaker pro tempore: Honourable senators, traditionally, we have a very broad debate; however, at this time, we are debating the amendment at third reading stage.

[English]

Hon. Willie Adams: I move the adjournment of the debate.

Senator Austin: I think I should be allowed to respond.

Senator St. Germain: The debate is adjourned.

Senator Austin: No, it is not.

Senator Robichaud: As long as people want to speak, we should not adjourn the debate.

Senator Austin: Honourable senators, the question of whether a part-time adjudicator can be independent —

Senator Adams: I would raise a point of order. Honourable senators, if I have moved the adjournment of the debate, how can another senator speak?

Senator Austin: I am responding to Senator Nolin's question. If no one else asks me a question, I would be thrilled if Senator Adams would move the adjournment.

The question asked is whether a part-time adjudicator can be independent. I do not have a problem in believing that a part-time adjudicator can be independent. The law clearly prescribes what that independence is to be. There must be no conflict of interest. However, I want Senator Nolin to understand that persons may be appointed as adjudicators, but have no work to do because no Aboriginal community has referred a claim to them. You cannot have people sitting there, in an office, wondering what to do next. It would be like a courtroom where no one has filed a writ. What would the judges do?

Senator Forrestall: What a wonderful world it would be.

Senator Austin: Yes, it would be a wonderful world.

It is a practical matter, but of course the system depends on the integrity of the people appointed. Our parliamentary system is the same. Everything depends on the integrity of the individuals.

Senator Nolin: However, when the bill was presented, I questioned the sponsor of the bill on the meaning of that clause. I understand the practical answer. What about the matter of who cannot be an adjudicator? For example, can an adjudicator be an employee of the Department of Indian Affairs?

Senator Austin: No. An employee would have to give up his or her employment at the Department of Indian Affairs and could never return to that employment. That it is written in the amendments to the bill.

On motion of Senator Adams, debate adjourned.

[Translation]

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, there are a few items left under Government Business. The Honourable Senator Spivak was supposed to give her speech at second reading stage of Bill C-42, but she has agreed to postpone it until tomorrow. Perhaps we could find consent to have all items on the Order Paper that were not considered today deferred until the next sitting.

It is customary, when new senators are introduced, to adjourn so that they can entertain their many guests. We could follow the tradition.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, as usual, the opposition is in total agreement with our honourable colleague's suggestion, especially this time, since we have a new senator from New Brunswick, and we would be very happy to celebrate that.

Senator Robichaud: Honourable senators, I move that the Senate do now adjourn.

The Senate adjourned until Wednesday, September 17, 2003, at 1:30 p.m.

APPENDIX

Officers of the Senate

The Ministry

Senators

(Listed according to seniority, alphabetically and by provinces)

Committees of the Senate

THE SPEAKER

The Honourable Daniel P. Hays

THE LEADER OF THE GOVERNMENT

The Honourable Sharon Carstairs, P.C.

THE LEADER OF THE OPPOSITION

The Honourable John Lynch-Staunton

OFFICERS OF THE SENATE**CLERK OF THE SENATE AND CLERK OF THE PARLIAMENTS**

Paul Bélisle

DEPUTY CLERK, PRINCIPAL CLERK, LEGISLATIVE SERVICES

Gary O'Brien

LAW CLERK AND PARLIAMENTARY COUNSEL

Mark Audcent

USHER OF THE BLACK ROD

Terrance J. Christopher

THE MINISTRY

According to Precedence

(September 16, 2003)

The Right Hon. Jean Chrétien	Prime Minister
The Hon. David M. Collenette	Minister of Transport
The Hon. David Anderson	Minister of the Environment
The Hon. Ralph E. Goodale	Minister of Public Works and Government Services Minister responsible for the Canadian Wheat Board and Federal Interlocutor for Métis and Non-Status Indians
The Hon. Sheila Copps	Minister of Canadian Heritage
The Hon. John Manley	Deputy Prime Minister, Minister of Finance and Minister of Infrastructure
The Hon. Anne McLellan	Minister of Health
The Hon. Allan Rock	Minister of Industry
The Hon. Lucienne Robillard	President of the Treasury Board
The Hon. Martin Cauchon	Minister of Justice and Attorney General of Canada
The Hon. Jane Stewart	Minister of Human Resources Development
The Hon. Stéphane Dion	President of the Queen's Privy Council for Canada and Minister of Intergovernmental Affairs
The Hon. Pierre Pettigrew	Minister of International Trade
The Hon. Don Boudria	Leader of the Government in the House of Commons
The Hon. Lyle Vanclief	Minister of Agriculture and Agri-Food
The Hon. Herb Dhaliwal	Minister of Natural Resources
The Hon. Claudette Bradshaw	Minister of Labour
The Hon. Robert Daniel Nault	Minister of Indian Affairs and Northern Development
The Hon. Elinor Caplan	Minister for National Revenue
The Hon. Denis Coderre	Minister of Citizenship and Immigration
The Hon. Sharon Carstairs	Leader of the Government in the Senate
The Hon. Robert G. Thibault	Minister of Fisheries and Oceans
The Hon. Rey Pagtakhan	Minister of Veterans Affairs and Secretary of State (Science, Research and Development)
The Hon. Susan Whelan	Minister for International Cooperation
The Hon. William Graham	Minister of Foreign Affairs
The Hon. Gerry Byrne	Minister of State (Atlantic Canada Opportunities Agency)
The Hon. John McCallum	Minister of National Defence
The Hon. Wayne Easter	Solicitor General of Canada
The Hon. Ethel Blondin-Andrew	Secretary of State (Children and Youth)
The Hon. David Kilgour	Secretary of State (Asia-Pacific)
The Hon. Andrew Mitchell	Secretary of State (Rural Development) (Federal Economic Development Initiative for Northern Ontario)
The Hon. Maurizio Bevilacqua	Secretary of State (International Financial Institutions)
The Hon. Paul DeVillers	Secretary of State (Amateur Sport) and Deputy Leader of the Government in the House of Commons
The Hon. Gar Knutson	Secretary of State (Central and Eastern Europe and Middle East)
The Hon. Denis Paradis	Secretary of State (Latin America and Africa) (Francophonie)
The Hon. Claude Drouin	Secretary of State (Economic Development Agency of Canada for the Regions of Quebec)
The Hon. Stephen Owen	Secretary of State (Western Economic Diversification) (Indian Affairs and Northern Development)
The Hon. Jean Augustine	Secretary of State (Multiculturalism) (Status of Women)
The Hon. Steve Mahoney	Secretary of State (Selected Crown Corporations)

SENATORS OF CANADA

ACCORDING TO SENIORITY

(September 16, 2003)

Senator	Designation	Post Office Address
THE HONOURABLE		
Herbert O. Sparrow	Saskatchewan	North Battleford, Sask.
Edward M. Lawson	Vancouver	Vancouver, B.C.
Bernard Alasdair Graham, P.C.	The Highlands	Sydney, N.S.
Jack Austin, P.C.	Vancouver South	Vancouver, B.C.
Willie Adams	Nunavut	Rankin Inlet, Nunavut
Lowell Murray, P.C.	Pakenham	Ottawa, Ont.
C. William Doody	Harbour Main-Bell Island	St. John's, Nfld. & Lab.
Peter Alan Stollery	Bloor and Yonge	Toronto, Ont.
Peter Michael Pitfield, P.C.	Ottawa-Vanier	Ottawa, Ont.
E. Leo Kolber	Victoria	Westmount, Que.
Michael Kirby	South Shore	Halifax, N.S.
Jerahmiel S. Grafstein	Metro Toronto	Toronto, Ont.
Anne C. Cools	Toronto-Centre-York	Toronto, Ont.
Charlie Watt	Inkerman	Kuujuuaq, Que.
Daniel Phillip Hays, <i>Speaker</i>	Calgary	Calgary, Alta.
Joyce Fairbairn, P.C.	Lethbridge	Lethbridge, Alta.
Colin Kenny	Rideau	Ottawa, Ont.
Pierre De Bané, P.C.	De la Vallière	Montreal, Que.
Eymard Georges Corbin	Grand-Sault	Grand-Sault, N.B.
Brenda Mary Robertson	Riverview	Shediac, N.B.
Norman K. Atkins	Markham	Toronto, Ont.
Ethel Cochrane	Newfoundland and Labrador	Port-au-Port, Nfld. & Lab.
Eileen Rossiter	Prince Edward Island	Charlottetown, P.E.I.
Mira Spivak	Manitoba	Winnipeg, Man.
Roch Bolduc	Gulf	Sainte-Foy, Que.
Gérald-A. Beaudoin	Rigaud	Hull, Que.
Pat Carney, P.C.	British Columbia	Vancouver, B.C.
Gerald J. Comeau	Nova Scotia	Church Point, N.S.
Consiglio Di Nino	Ontario	Downsview, Ont.
Donald H. Oliver	Nova Scotia	Halifax, N.S.
Noël A. Kinsella	Fredericton-York-Sunbury	Fredericton, N.B.
John Buchanan, P.C.	Nova Scotia	Halifax, N.S.
John Lynch-Staunton	Grandville	Georgeville, Que.
James Francis Kelleher, P.C.	Ontario	Sault Ste. Marie, Ont.
J. Trevor Eyton	Ontario	Caledon, Ont.
Wilbert Joseph Keon	Ottawa	Ottawa, Ont.
Michael Arthur Meighen	St. Marys	Toronto, Ont.
J. Michael Forrestell	Dartmouth and Eastern Shore	Dartmouth, N.S.
Janis G. Johnson	Winnipeg-Interlake	Gimli, Man.
A. Raynell Andreychuk	Regina	Regina, Sask.
Jean-Claude Rivest	Stadacona	Quebec, Que.
Terrance R. Stratton	Red River	St. Norbert, Man.
Marcel Prud'homme, P.C.	La Salle	Montreal, Que.
Leonard J. Gustafson	Saskatchewan	Macoun, Sask.
David Tkachuk	Saskatchewan	Saskatoon, Sask.
W. David Angus	Alma	Montreal, Que.
Pierre Claude Nolin	De Salaberry	Quebec, Que.
Marjory LeBreton	Ontario	Manotick, Ont.

Senator	Designation	Post Office Address
Gerry St. Germain, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.
Lise Bacon	De la Durantaye	Laval, Que.
Sharon Carstairs, P.C.	Manitoba	Victoria Beach, Man.
Landon Pearson	Ontario	Ottawa, Ont.
Jean-Robert Gauthier	Ottawa-Vanier	Ottawa, Ont.
John G. Bryden	New Brunswick	Bayfield, N.B.
Rose-Marie Losier-Cool	Tracadie	Bathurst, N.B.
Céline Hervieux-Payette, P.C.	Bedford	Montreal, Que.
William H. Rompkey, P.C.	Labrador	North West River, Labrador, Nfld. & Lab.
Lorna Milne	Peel County	Brampton, Ont.
Marie-P. Poulin	Nord de l'Ontario/Northern Ontario	Ottawa, Ont.
Shirley Maheu	Rougemont	Saint-Laurent, Que.
Wilfred P. Moore	Stanhope St./Bluenose	Chester, N.S.
Lucie Pépin	Shawinigan	Montreal, Que.
Fernand Robichaud, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.
Catherine S. Callbeck	Prince Edward Island	Central Bedeque, P.E.I.
Marisa Ferretti Barth	Repentigny	Pierrefonds, Que.
Serge Joyal, P.C.	Kennebec	Montreal, Que.
Thelma J. Chalifoux	Alberta	Morinville, Alta.
Joan Cook	Newfoundland and Labrador	St. John's, Nfld. & Lab.
Ross Fitzpatrick	Okanagan-Similkameen	Kelowna, B.C.
Francis William Mahovlich	Toronto	Toronto, Ont.
Richard H. Kroft	Manitoba	Winnipeg, Man.
Douglas James Roche	Edmonton	Edmonton, Alta.
Joan Thorne Fraser	De Lorimier	Montreal, Que.
Aurélien Gill	Wellington	Mashteuiatsh, Pointe-Bleue, Que.
Vivienne Poy	Toronto	Toronto, Ont.
One Christensen	Yukon Territory	Whitehorse, Y.T.
George Furey	Newfoundland and Labrador	St. John's, Nfld. & Lab.
Nick G. Sibbeston	Northwest Territories	Fort Simpson, N.W.T.
Sobel Finnerty	Ontario	Burlington, Ont.
John Wiebe	Saskatchewan	Swift Current, Sask.
Tommy Banks	Alberta	Edmonton, Alta.
Jane Cordy	Nova Scotia	Dartmouth, N.S.
Yves Morin	Lauzon	Quebec, Que.
Elizabeth M. Hubley	Prince Edward Island	Kensington, P.E.I.
Laurier L. LaPierre	Ontario	Ottawa, Ont.
Viola Léger	Acadie/New Brunswick	Moncton, N.B.
Mobina S. B. Jaffer	British Columbia	North Vancouver, B.C.
Sean Lapointe	Saurel	Magog, Que.
Gerard A. Phalen	Nova Scotia	Glace Bay, N.S.
Joseph A. Day	Saint John-Kennebecasis	Hampton, N.B.
Michel Biron	Mille Isles	Nicolet, Que.
George S. Baker, P.C.	Newfoundland and Labrador	Gander, Nfld. & Lab.
Raymond Lavigne	Montarville	Verdun, Que.
David P. Smith, P.C.	Cobourg	Toronto, Ont.
Maria Chaput	Manitoba	Sainte-Anne, Man.
Jana Merchant	Saskatchewan	Regina, Sask.
Fierrette Ringuette	New Brunswick	Edmundston, N.B.
Percy Downe	Charlottetown	Charlottetown, P.E.I.
Paul J. Massicotte	De Lanaudière	Mont-Royal, Que.
Mac Harb	Ontario	Ottawa, Ont.
Madeleine Plamondon	The Laurentides	Shawinigan, Que.
Marilyn Trenholme Counsell	New Brunswick	Sackville, N.B.

SENATORS OF CANADA

ALPHABETICAL LIST

(September 16, 2003)

Senator	Designation	Post Office Address	Political Affiliation
THE HONOURABLE			
Adams, Willie	Nunavut	Rankin Inlet, Nunavut	Lib
Andreychuk, A. Raynell	Regina	Regina, Sask.	PC
Angus, W. David	Alma	Montreal, Que.	PC
Atkins, Norman K.	Markham	Toronto, Ont.	PC
Austin, Jack, P.C.	Vancouver South	Vancouver, B.C.	Lib
Bacon, Lise	De la Durantaye	Laval, Que.	Lib
Baker, George S., P.C.	Newfoundland and Labrador	Gander, Nfld. & Lab.	Lib
Banks, Tommy	Alberta	Edmonton, Alta.	Lib
Beaudoin, Gérard-A.	Rigaud	Hull, Que.	PC
Biron, Michel	Mille Isles	Nicolet, Que.	Lib
Bryden, John G.	New Brunswick	Bayfield, N.B.	Lib
Buchanan, John, P.C.	Halifax	Halifax, N.S.	PC
Callbeck, Catherine S.	Prince Edward Island	Central Bedeque, P.E.I.	Lib
Carney, Pat, P.C.	British Columbia	Vancouver, B.C.	PC
Carstairs, Sharon, P.C.	Manitoba	Victoria Beach, Man.	Lib
Chalifoux, Thelma J.	Alberta	Morinville, Alta.	Lib
Chaput, Maria	Manitoba	Sainte-Anne, Man.	Lib
Christensen, Ione	Yukon Territory	Whitehorse, Y.T.	Lib
Cochrane, Ethel	Newfoundland and Labrador	Port-au-Port, Nfld. & Lab.	PC
Comeau, Gerald J.	Nova Scotia	Church Point, N.S.	PC
Cook, Joan	Newfoundland and Labrador	St. John's, Nfld. & Lab.	Lib
Cools, Anne C.	Toronto-Centre-York	Toronto, Ont.	Lib
Corbin, Eymard Georges	Grand-Sault	Grand-Sault, N.B.	Lib
Cordy, Jane	Nova Scotia	Dartmouth, N.S.	Lib
Day, Joseph A.	Saint John-Kennebecasis	Hampton, N.B.	Lib
De Bané, Pierre, P.C.	De la Vallière	Montreal, Que.	Lib
Di Nino, Consiglio	Ontario	Downsview, Ont.	PC
Doody, C. William	Harbour Main-Bell Island	St. John's, Nfld. & Lab.	PC
Downe, Percy	Charlottetown	Charlottetown, P.E.I.	PC
Eyton, J. Trevor	Ontario	Caledon, Ont.	PC
Fairbairn, Joyce, P.C.	Lethbridge	Lethbridge, Alta.	Lib
Ferretti Barth, Marisa	Repentigny	Pierrefonds, Que.	Lib
Finnerty, Isobel	Ontario	Burlington, Ont.	Lib
Fitzpatrick, Ross	Okanagan-Similkameen	Kelowna, B.C.	Lib
Forrestall, J. Michael	Dartmouth and the Eastern Shore	Dartmouth, N.S.	PC
Fraser, Joan Thorne	De Lorimier	Montreal, Que.	Lib
Furey, George	Newfoundland and Labrador	St. John's, Nfld. & Lab.	Lib
Gauthier, Jean-Robert	Ottawa-Vanier	Ottawa, Ont.	Lib
Gill, Aurélien	Wellington	Mashteuiatsh, Pointe-Bleue, Que.	Lib
Grafstein, Jeremiah S.	Metro Toronto	Toronto, Ont.	Lib
Graham, Bernard Alasdair, P.C.	The Highlands	Sydney, N.S.	Lib
Gustafson Leonard J.	Saskatchewan	Macoun, Sask.	PC
Harb, Mac	Ontario	Ottawa, Ont.	Lib
Hays, Daniel Phillip, <i>Speaker</i>	Calgary	Calgary, Alta.	Lib
Hervieux-Payette, Céline, P.C.	Bedford	Montreal, Que.	Lib
Hubley, Elizabeth M.	Prince Edward Island	Kensington, P.E.I.	Lib
Jaffer, Mobina S. B.	British Columbia	North Vancouver, B.C.	Lib

Senator	Designation	Post Office Address	Political Affiliation
Johnson, Janis G.	Winnipeg-Interlake	Gimli, Man.	PC
Joyal, Serge, P.C.	Kennebec	Montreal, Que.	Lib
Kelleher, James Francis, P.C.	Ontario	Sault Ste. Marie, Ont.	PC
Kenny, Colin	Rideau	Ottawa, Ont.	Lib
Keon, Wilbert Joseph	Ottawa	Ottawa, Ont.	PC
Kinsella, Noël A.	Fredericton-York-Sunbury	Fredericton, N.B.	PC
Kirby, Michael	South Shore	Halifax, N.S.	Lib
Kolber, E. Leo	Victoria	Westmount, Que.	Lib
Kroft, Richard H.	Manitoba	Winnipeg, Man.	Lib
LaPierre, Laurier L.	Ontario	Ottawa, Ont.	Lib
Lapointe, Jean	Sauvel	Magog, Que.	Lib
Lavigne, Raymond	Montarville	Verdun, Que.	Lib
Lawson, Edward M.	Vancouver	Vancouver, B.C.	Ind
LeBreton, Marjory	Ontario	Manotick, Ont.	PC
Léger, Viola	Acadie/New Brunswick	Moncton, N.B.	Lib
Losier-Cool, Rose-Marie	Tracadie	Bathurst, N.B.	Lib
Lynch-Staunton, John	Grandville	Georgeville, Que.	PC
Maheu, Shirley	Rougemont	Saint-Laurent, Que.	Lib
Mahovlich, Francis William	Toronto	Toronto, Ont.	Lib
Massicotte, Paul J.	De Lanaudière	Mont-Royal, Que.	Lib
Meighen, Michael Arthur	St. Marys	Toronto, Ont.	PC
Merchant, Pana	Saskatchewan	Regina, Sask.	Lib
Milne, Lorna	Peel County	Brampton, Ont.	Lib
Moore, Wilfred P.	Stanhope St./Bluenose	Chester, N.S.	Lib
Morin, Yves	Lauson	Quebec, Que.	Lib
Murray, Lowell, P.C.	Pakenham	Ottawa, Ont.	PC
Nolin, Pierre Claude	De Salaberry	Quebec, Que.	PC
Oliver, Donald H.	Nova Scotia	Halifax, N.S.	PC
Pearson, Landon	Ontario	Ottawa, Ontario	Lib
Pépin, Lucie	Shawinigan	Montreal, Que.	Lib
Phalen, Gerard A.	Nova Scotia	Glace Bay, N.S.	Lib
Pitfield, Peter Michael, P.C.	Ottawa-Vanier	Ottawa, Ont.	Ind
Plamondon, Madeleine	The Laurentides	Shawinigan, Que.	Ind
Poulin, Marie-P.	Nord de l'Ontario/Northern Ontario	Ottawa, Ont.	Lib
Poy, Vivienne	Toronto	Toronto, Ont.	Lib
Prud'homme, Marcel, P.C.	La Salle	Montreal, Que.	Ind
Ringuette, Pierrette	New Brunswick	Edmundston, N.B.	Lib
Rivest, Jean-Claude	Stadacona	Quebec, Que.	PC
Robertson, Brenda Mary	Riverview	Shediac, N.B.	PC
Robichaud, Fernand, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.	Lib
Roche, Douglas James	Edmonton	Edmonton, Alta.	Ind
Rompkey, William H., P.C.	Labrador	North West River, Labrador, Nfld. & Lab.	Lib
Rossiter, Eileen	Prince Edward Island	Charlottetown, P.E.I.	PC
St. Germain, Gerry, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.	CA
Sibbeston, Nick G.	Northwest Territories	Fort Simpson, N.W.T.	Lib
Smith, David P., P.C.	Cobourg	Toronto, Ont.	Lib
Sparrow, Herbert O.	Saskatchewan	North Battleford, Sask.	Lib
Spivak, Mira	Manitoba	Winnipeg, Man.	PC
Stollery, Peter Alan	Bloor and Yonge	Toronto, Ont.	Lib
Stratton, Terrance R.	Red River	St. Norbert, Man.	PC
Tkachuk, David	Saskatchewan	Saskatoon, Sask.	PC
Trenholme Counsell, Marilyn	New Brunswick	Sackville, N.B.	Lib
Watt, Charlie	Inkerman	Kuujuuaq, Que.	Lib
Wiebe, John	Saskatchewan	Swift Current, Sask.	Lib

SENATORS OF CANADA
BY PROVINCE AND TERRITORY
 (September 16, 2003)

ONTARIO—24

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Lowell Murray, P.C.	Pakenham	Ottawa
2 Peter Alan Stollery	Bloor and Yonge	Toronto
3 Peter Michael Pitfield, P.C.	Ottawa-Vanier	Ottawa
4 Jeremiah S. Grafstein	Metro Toronto	Toronto
5 Anne C. Cools	Toronto-Centre-York	Toronto
6 Colin Kenny	Rideau	Ottawa
7 Norman K. Atkins	Markham	Toronto
8 Consiglio Di Nino	Ontario	Downsview
9 James Francis Kelleher, P.C.	Ontario	Sault Ste. Marie
10 John Trevor Eyton	Ontario	Caledon
11 Wilbert Joseph Keon	Ottawa	Ottawa
12 Michael Arthur Meighen	St. Marys	Toronto
13 Marjory LeBreton	Ontario	Manotick
14 Landon Pearson	Ontario	Ottawa
15 Jean-Robert Gauthier	Ottawa-Vanier	Ottawa
16 Lorna Milne	Peel County	Brampton
17 Marie-P. Poulin	Northern Ontario	Ottawa
18 Francis William Mahovlich	Toronto	Toronto
19 Vivienne Poy	Toronto	Toronto
20 Isobel Finnerty	Ontario	Burlington
21 Laurier L. LaPierre	Ontario	Ottawa
22 David P. Smith, P.C.	Cobourg	Toronto
23 Mac Harb	Ontario	Ottawa
24 .....	.....	.....

SENATORS BY PROVINCE AND TERRITORY

QUEBEC—24

Senator	Designation	Post Office Address
THE HONOURABLE		
1 E. Leo Kolber	Victoria	Westmount
2 Charlie Watt	Inkerman	Kuujuaq
3 Pierre De Bané, P.C.	De la Vallière	Montreal
4 Gérald-A. Beaudoin	Rigaud	Hull
5 John Lynch-Staunton	Grandville	Georgeville
6 Jean-Claude Rivest	Stadacona	Quebec
7 Marcel Prud'homme, P.C.	La Salle	Montreal
8 W. David Angus	Alma	Montreal
9 Pierre Claude Nolin	De Salaberry	Quebec
10 Lise Bacon	De la Durantaye	Laval
11 Céline Hervieux-Payette, P.C.	Bedford	Montreal
12 Shirley Maheu	Rougemont	Ville de Saint-Laurent
13 Lucie Pépin	Shawinigan	Montreal
14 Marisa Ferretti Barth	Repentigny	Pierrefonds
15 Serge Joyal, P.C.	Kennebec	Montreal
16 Joan Thorne Fraser	De Lorimier	Montreal
17 Aurélien Gill	Wellington	Mashteuiatsh, Pointe-Bleue
18 Yves Morin	Lauzon	Quebec
19 Jean Lapointe	Sauvel	Magog
20 Michel Biron	Milles Isles	Nicolet
21 Raymond Lavigne	Montarville	Verdun
22 Paul J. Massicotte	De Lanaudière	Mont-Royal
23 Madeleine Plamondon	The Laurentides	Shawinigan
24		

SENATORS BY PROVINCE-MARITIME DIVISION

NOVA SCOTIA—10

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Bernard Alasdair Graham, P.C.	The Highlands	Sydney
2 Michael Kirby	South Shore	Halifax
3 Gerald J. Comeau	Nova Scotia	Church Point
4 Donald H. Oliver	Nova Scotia	Halifax
5 John Buchanan, P.C.	Halifax	Halifax
6 J. Michael Forrestall	Dartmouth and Eastern Shore	Dartmouth
7 Wilfred P. Moore	Stanhope St./Bluenose	Chester
8 Jane Cordy	Nova Scotia	Dartmouth
9 Gerard A. Phalen	Nova Scotia	Glace Bay
10		

NEW BRUNSWICK—10

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Eymard Georges Corbin	Grand-Sault	Grand-Sault
2 Brenda Mary Robertson	Riverview	Shediac
3 Noël A. Kinsella	Fredericton-York-Sunbury	Fredericton
4 John G. Bryden	New Brunswick	Bayfield
5 Rose-Marie Losier-Cool	Tracadie	Bathurst
6 Fernand Robichaud, P.C.	Saint-Louis-de-Kent	Saint-Louis-de-Kent
7 Viola Léger	Acadie/New Brunswick	Moncton
8 Joseph A. Day	Saint John-Kennebecasis	Hampton
9 Pierrette Ringuette	New Brunswick	Edmundston
10 Marilyn Trenholme Counsell	New Brunswick	Sackville

PRINCE EDWARD ISLAND—4

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Eileen Rossiter	Prince Edward Island	Charlottetown
2 Catherine S. Callbeck	Prince Edward Island	Central Bedeque
3 Elizabeth M. Hubley	Prince Edward Island	Kensington
4 Percy Downe	Charlottetown	Charlottetown

SENATORS BY PROVINCE-WESTERN DIVISION

MANITOBA—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Mira Spivak	Manitoba	Winnipeg
2 Janis G. Johnson	Winnipeg-Interlake	Gimli
3 Terrance R. Stratton	Red River	St. Norbert
4 Sharon Carstairs, P.C.	Manitoba	Victoria Beach
5 Richard H. Kroft	Manitoba	Winnipeg
6 Maria Chaput	Manitoba	Sainte-Anne

BRITISH COLUMBIA—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Edward M. Lawson	Vancouver	Vancouver
2 Jack Austin, P.C.	Vancouver South	Vancouver
3 Pat Carney, P.C.	British Columbia	Vancouver
4 Gerry St. Germain, P.C.	Langley-Pemberton-Whistler	Maple Ridge
5 Ross Fitzpatrick	Okanagan-Similkameen	Kelowna
6 Mobina S.B. Jaffer	British Columbia	North Vancouver

SASKATCHEWAN—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Herbert O. Sparrow	Saskatchewan	North Battleford
2 A. Raynell Andreychuk	Regina	Regina
3 Leonard J. Gustafson	Saskatchewan	Macoun
4 David Tkachuk	Saskatchewan	Saskatoon
5 John Wiebe	Saskatchewan	Swift Current
6 Pana Merchant	Saskatchewan	Regina

ALBERTA—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Daniel Phillip Hays, <i>Speaker</i>	Calgary	Calgary
2 Joyce Fairbairn, P.C.	Lethbridge	Lethbridge
3 Thelma J. Chalifoux	Alberta	Morinville
4 Douglas James Roche	Edmonton	Edmonton
5 Tommy Banks	Alberta	Edmonton
6 . . . . .	. . . . .	. . . . .

SENATORS BY PROVINCE AND TERRITORY

NEWFOUNDLAND AND LABRADOR—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 C. William Doody	Harbour Main-Bell Island	St. John's
2 Ethel Cochrane	Newfoundland and Labrador	Port-au-Port
3 William H. Rompkey, P.C.	Labrador	North West River, Labrador
4 Joan Cook	Newfoundland and Labrador	St. John's
5 George Furey	Newfoundland and Labrador	St. John's
6 George S. Baker, P.C.	Newfoundland and Labrador	Gander

NORTHWEST TERRITORIES—1

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Nick G. Sibbeston	Northwest Territories	Fort Simpson

NUNAVUT—1

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Willie Adams	Nunavut	Rankin Inlet

YUKON TERRITORY—1

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Ione Christensen	Yukon Territory	Whitehorse

ALPHABETICAL LIST OF STANDING, SPECIAL AND JOINT COMMITTEES

(As of September 16, 2003)

*Ex Officio Member

ABORIGINAL PEOPLES

Chair: Honourable Senator Chalifoux

Deputy Chair: Honourable Senator Johnson

Honourable Senators:

Austin,	Chalifoux,	Gill,	Pearson,
Carney,	Chaput,	Léger,	Sibbeston,
Carstairs,	Christensen,	* Lynch-Staunton,	Stratton,
(or Robichaud)	Forrestall,	(or Kinsella)	Tkachuk.

Original Members as nominated by the Committee of Selection

Carney, *Carstairs (or Robichaud), Chalifoux, Christensen, Gill, Hubley, Johnson, Léger, *Lynch-Staunton (or Kinsella), Pearson, Sibbeston, St. Germain, Tkachuk.

AGRICULTURE AND FORESTRY

Chair: Honourable Senator Oliver

Deputy Chair: Honourable Senator Wiebe

Honourable Senators:

Carstairs,	Fairbairn,	LeBreton,	Ringuette,
(or Robichaud)	Gustafson,	* Lynch-Staunton,	Tkachuk,
Chalifoux,	Hubley,	(or Kinsella)	Wiebe.
Day,	LaPierre,	Oliver,	

Original Members as nominated by the Committee of Selection

*Carstairs (or Robichaud), Chalifoux, Day, Fairbairn, Gustafson, Hubley, LaPierre, Lapointe, LeBreton, *Lynch-Staunton (or Kinsella), Moore, Oliver, Tkachuk, Wiebe.

BANKING, TRADE AND COMMERCE

Chair: Honourable Senator Kroft

Deputy Chair: Honourable Senator Tkachuk

Honourable Senators:

Angus,	Fitzpatrick,	Kroft,	Oliver,
Biron,	Hervieux-Payette,	* Lynch-Staunton,	Prud'homme,
Carstairs,	Kelleher,	(or Kinsella)	Setlakwe,
(or Robichaud)	Kolber,	Moore,	Tkachuk.

Original Members as nominated by the Committee of Selection

Angus, *Carstairs (or Robichaud), Fitzpatrick, Hervieux-Payette, Kelleher, Kolber, Kroft, *Lynch-Staunton (or Kinsella), Meighen, Poulin, Prud'homme, Setlakwe, Taylor, Tkachuk.

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

Chair: Honourable Senator Banks

Deputy Chair: Honourable Senator Spivak

Honourable Senators:

Baker,	Christensen,	Kenny,	Milne,
Banks,	Cochrane,	* Lynch-Staunton,	Spivak,
Buchanan,	Eyton,	(or Kinsella)	Watt.
* Carstairs,	Finnerty,	Merchant,	
(or Robichaud)			

Original Members as nominated by the Committee of Selection

*Baker, Banks, Buchanan, *Carstairs (or Robichaud), Christensen, Cochrane, Eyton, Finnerty, Kenny, *Lynch-Staunton (or Kinsella), Milne, Spivak, Taylor, Watt.*

FISHERIES AND OCEANS

Chair: Honourable: Senator Comeau

Deputy Chair: Honourable Senator Cook

Honourable Senators:

Adams,	Cochrane,	Johnson,	Meighen,
Baker,	Comeau,	* Lynch-Staunton,	Phalen,
* Carstairs,	Cook,	(or Kinsella)	Watt.
(or Robichaud)	Hubley,	Mahovlich,	

Original Members as nominated by the Committee of Selection

*Adams, Baker, *Carstairs (or Robichaud), Cochrane, Comeau, Cook, Hubley, Johnson, *Lynch-Staunton (or Kinsella), Mahovlich, Moore, Phalen, Robertson, Watt*

FOREIGN AFFAIRS

Chair: Honourable Senator Stollery

Deputy Chair: Honourable Senator Di Nino

Honourable Senators:

Andreychuk,	* Carstairs,	Di Nino,	* Lynch-Staunton,
Austin,	(or Robichaud)	Grafstein,	(or Kinsella)
Bolduc,	Corbin,	Graham,	Mahovlich,
Carney,	De Bané,	Losier-Cool,	Stollery.

Original Members as nominated by the Committee of Selection

*Andreychuk, Austin, Bolduc, Carney, *Carstairs (or Robichaud), Corbin, De Bané, Di Nino, Grafstein, Graham, Losier-Cool, *Lynch-Staunton (or Kinsella), Setlakwe, Stollery.*

HUMAN RIGHTS

Chair: Honourable Senator Maheu

Deputy Chair: Honourable Senator Rossiter

Honourable Senators:

Beaudoin,	Ferretti Barth,	LaPierre,	Maheu,
Carstairs,	Jaffer,	* Lynch-Staunton,	Rivest,
(or Robichaud)	Joyal,	(or Kinsella)	Rossiter.
Chalifoux,			

Original Members as nominated by the Committee of Selection

*Beaudoin, *Carstairs (or Robichaud), Ferretti Barth, Fraser, Jaffer, LaPierre,
Lynch-Staunton (or Kinsella), Maheu, Poy, Rivest, Rossiter.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

Chair: Honourable Senator Bacon

Interim Deputy Chair: Honourable Senator Stratton

Honourable Senators:

Atkins,	* Carstairs,	Gauthier,	Poulin,
Austin,	(or Robichaud)	Gill,	Robertson,
Bacon,	Cook,	Jaffer,	Robichaud,
Bolduc,	De Bané,	* Lynch-Staunton,	Stratton.
Bryden,	Eyton,	(or Kinsella)	

Original Members as nominated by the Committee of Selection

*Angus, Atkins, Austin, *Carstairs (or Robichaud), Bacon, Bryden, De Bané, Doody, Eyton, Gauthier,
Gill, Jaffer, Kroft, *Lynch-Staunton (or Kinsella), Poulin, Robichaud, Stratton.*

LEGAL AND CONSTITUTIONAL AFFAIRS

Chair: Honourable Senator Furey

Deputy Chair: Honourable Senator Beaudoin

Honourable Senators:

Andreychuk,	* Carstairs,	Jaffer,	Nolin,
Baker,	(or Robichaud)	Joyal,	Pearson,
Beaudoin,	Cools,	* Lynch-Staunton,	Smith.
Bryden,	Furey,	(or Kinsella)	
Buchanan,			

Original Members as nominated by the Committee of Selection

*Andreychuk, Baker, Beaudoin, Bryden, Buchanan, *Carstairs (or Robichaud), Cools, Furey,
Jaffer, Joyal, *Lynch-Staunton (or Kinsella), Nolin, Pearson, Smith.*

LIBRARY OF PARLIAMENT (Joint)

Joint Chair:

Vice-Chair:

Honourable Senators:

Bolduc,
Forrestall,

Lapointe,

Morin,

Poy.

*Original Members agreed to by Motion of the Senate**Bolduc, Forrestall, Lapointe, Morin, Poy.*

NATIONAL FINANCE

Chair: Honourable Senator Murray

Deputy Chair: Honourable Senator Day

Honourable Senators:

Biron,
* Carstairs,
(or Robichaud)
Chaput,Comeau,
Day,
Doody,
Ferretti Barth,Finnerty,
Gauthier,
* Lynch-Staunton,
(or Kinsella)Maheu,
Mahovlich,
Murray,
Oliver.*Original Members as nominated by the Committee of Selection**Biron, Bolduc, *Carstairs (or Robichaud), Cools, Day, Doody, Eyton, Ferretti Barth, Finnerty, Furey, Gauthier, *Lynch-Staunton (or Kinsella), Mahovlich, Murray.*

NATIONAL SECURITY AND DEFENCE

Chair: Honourable Senator Kenny

Deputy Chair: Honourable Senator Forrestall

Honourable Senators:

Atkins,
Banks,
* Carstairs,
(or Robichaud)Cordy,
Day,
Forrestall,Kenny,
* Lynch-Staunton,
(or Kinsella)Meighen,
Smith,
Wiebe.*Original Members as nominated by the Committee of Selection**Atkins, Banks, *Carstairs (or Robichaud), Cordy, Day, Forrestall, Kenny, *Lynch-Staunton (or Kinsella), Meighen, Smith, Wiebe.*

VETERANS AFFAIRS
(Subcommittee of National Security and Defence)

Chair: Honourable Senator Meighen Deputy Chair: Honourable Senator Day

Honourable Senators:

Atkins,	Day,	* Lynch-Staunton,	Meighen,
Carstairs,	Kenny,	(or Kinsella)	Wiebe.
(or Robichaud)			

OFFICIAL LANGUAGES

Chair: Honourable Senator Losier-Cool Deputy Chair: Honourable Senator Keon

Honourable Senators:

Beaudoin,	Comeau,	Lapointe,	* Lynch-Staunton,
Carstairs,	Gauthier,	Léger,	(or Kinsella)
(or Robichaud)	Keon,	Losier-Cool,	Maheu.
Chaput,			

Original Members agreed to by Motion of the Senate
*Beaudoin, *Carstairs (or Robichaud), Comeau, Ferretti Barth, Gauthier, Keon, Lapointe,*
*Léger, Losier-Cool, *Lynch-Staunton (or Kinsella), Maheu.*

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

Chair: Honourable Senator Milne Deputy Chair: Honourable Senator Andreychuk

Honourable Senators:

Andreychuk,	Fraser,	* Lynch-Staunton,	Robertson,
Carstairs,	Grafstein,	(or Kinsella)	Robichaud,
(or Robichaud)	Hubley,	Milne,	Smith,
Cordy,	Joyal,	Murray,	Stratton,
Di Nino,		Ringuette,	Wiebe.

Original Members as nominated by the Committee of Selection
*Andreychuk, Bacon, *Carstairs (or Robichaud), Di Nino, Grafstein, Joyal, Losier-Cool,*
**Lynch-Staunton (or Kinsella), Milne, Murray, Pépin, Pitfield, Robertson,*
Rompkey, Smith, Stratton, Wiebe.

SCRUTINY OF REGULATIONS (Joint)

Joint Chair: Honourable Hervieux-Payette

Vice-Chair:

Honourable Senators:

Biron,	Kelleher,	Moore,	Phalen.
Hervieux-Payette,	Merchant,	Nolin,	

Original Members as agreed to by Motion of the Senate

Biron, Hervieux-Payette, Hubley, Kelleher, Moore, Nolin, Phalen.

SELECTION

Chair: Honourable Senator Rompkey

Deputy Chair: Honourable Senator Stratton

Honourable Senators:

Biron,	De Bané,	Kolber,	Rompkey,
* Carstairs,	Fairbairn,	LeBreton,	Stratton,
(or Robichaud)	Kinsella,	* Lynch-Staunton,	Tkachuk.
		(or Kinsella)	

Original Members agreed to by Motion of the Senate

*Bacon, *Carstairs, (or Robichaud), De Bané, Fairbairn, Kinsella, Kolber, LeBreton, *Lynch-Staunton, (or Kinsella), Rompkey, Stratton, Tkachuk.*

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

Chair: Honourable Senator Kirby

Deputy Chair: Honourable Senator LeBreton

Honourable Senators:

Callbeck,	Cordy,	LeBreton,	Morin,
* Carstairs,	Fairbairn,	Léger,	Robertson,
(or Robichaud)	Keon,	* Lynch-Staunton,	Roche,
Cook,	Kirby,	(or Kinsella)	Rossiter.

Original Members as nominated by the Committee of Selection

*Callbeck *Carstairs (or Robichaud), Cook, Cordy, Di Nino Fairbairn, Keon, Kirby, LeBreton, *Lynch-Staunton (or Kinsella), Morin, Pépin, Robertson, Roche.*

TRANSPORT AND COMMUNICATIONS

Chair: Honourable Senator Fraser

Deputy Chair: Honourable Senator Gustafson

Honourable Senators:

Adams,	Eyton,	Johnson,	Merchant,
Carstairs,	Fraser,	LaPierre,	Phalen,
(or Robichaud)	Graham,	* Lynch-Staunton,	Ringuette,
Day,	Gustafson,	(or Kinsella)	Spivak.

Original Members as nominated by the Committee of Selection

*Adams, Biron, Callbeck, *Carstairs (or Robichaud), Day, Eyton, Fraser, Graham, Gustafson, Johnson, LaPierre, *Lynch-Staunton (or Kinsella), Phalen, Spivak.*

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CANADA

Debates of the Senate

2nd SESSION

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37th PARLIAMENT

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VOLUME 140

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OFFICIAL REPORT
(HANSARD)

Wednesday, September 17, 2003

THE HONOURABLE DAN HAYS
SPEAKER



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(Daily index of proceedings appears at back of this issue).

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THE SENATE

Wednesday, September 17, 2003

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

ACADIE

FOUR-HUNDREDTH ANNIVERSARY OF ACADIAN SETTLEMENT

Hon. Brenda M. Robertson: Honourable senators, in May of 1604, Samuel de Champlain, Pierre Dugua, Sieur de Mons, and several other representatives of King Henry IV of France explored the shores of eastern Canada and, in June of that year, established Ste. Croix Island as the main settlement of the new colony of "Acadie." In 2004, Acadie will celebrate 400 years of history, 400 years of contribution by francophones to the development, diversity and vitality of North America, and to the splendid mosaic that is this great country of Canada. This will be a moment in our nation's history that all Canadians should take pride in, the anniversary of the birth of the Acadian people and the roots of modern Canada.

Next year, honourable senators, Atlantic Canada will be very much on the international stage as tens of thousands of people from around the world will gather in our four Eastern provinces to celebrate not only this historic anniversary, but also the Congr  Mondial Acadien — the World Congress of the Acadians — that will also be celebrating at that time. Across all four Atlantic provinces preparations are well underway for events and celebrations, festivals and family reunions, historic re-enactments and cultural activities.

In conjunction with the four-hundredth anniversary preparations, the Soci t  Nationale de l'Acadie has unanimously passed a resolution at their annual general assembly asking the federal government to officially declare 2004 "l'Ann e de l'Acadie."

As a New Brunswicker and a Canadian, I am proud of the enormous contribution of the Acadian people to the rich history and culture of my home province and our country. I heartily endorse this request and encourage my colleagues in the Senate to do the same by sending the government a strong message of support for this request.

[Translation]

THE HONOURABLE HERM N GILDE CHIASSON

NEW BRUNSWICK—CONGRATULATIONS ON APPOINTMENT AS LIEUTENANT-GOVERNOR

Hon. Viola L ger: Honourable senators, I am extremely pleased to pay tribute to the new Lieutenant-Governor of New Brunswick, the Honourable Herm n gilde Chiasson. This great poet, painter, writer, playwright, film-maker and teacher,

this great Acadian, has always been able to trigger very strong emotions, both good and bad, in each one of us.

His multidisciplinary creations have always given us food for thought. That is the role of a true artist: to provide a vision of the future.

In his inaugural address on August 26, he was true to his role as an artist inviting us to reflect. He spoke as follows:

Societies, like individuals, need dreams and ideas if they are to be able to move toward the future. It is artists and thinkers who give substance to those dreams, those ideas. Not unlike the First Nations shamans, they are our bridge between the world of the spiritual and the world of the senses, our guides to beauty itself. Our entire lives are a quest for that beauty, which lies within each one of us. All artistic endeavours are therefore a form of prayer, an expression of faith in the ability of language to resolve our differences and establish a deep communion.

I totally agree with my friend Herm 's views. Culture is a vessel for both the history of the world and our own personal history. Not only the production of works of art, but also the way we live together, the way we express ourselves, the way we do things — these are all part of the legacy we will leave for future generations, a legacy we owe to them.

[English]

Herm n gilde Chiasson has always been very close to the Aboriginal people in New Brunswick and he has just lately completed a film called *Those Who Wait*. Again, I would like to quote his words concerning First Nations people. He said:

I also want to make myself available to as many groups as my schedule will allow, but especially to First Nations people, whose culture, for many of us, is still a mystery — a secret. I want to try to use my Office to encourage and incite them to cross that cultural barrier and to share with us the language of their soul, that voice which for me is still the most profound and the most intense voice of this land.

[Translation]

Herm n gilde Chiasson, this multidisciplinary creative genius, will now put his creativity to work in his role as Lieutenant-Governor of New Brunswick. He will continue to paint, to write, to be the poet who writes our future.

Thank you, Herm , and good luck.

• (1340)

OFFICIAL LANGUAGES

FEDERAL COURT DECISION ON CASE BROUGHT BY FORUM OF MAYORS OF ACADIAN PENINSULA

Hon. Gérard-A. Beaudoin: Honourable senators, I wish to add a few words to the statement made yesterday by my colleague, the Honourable Jean-Robert Gauthier, concerning section 41 of the Official Languages Act.

I welcome the September 8, 2003 decision by Federal Court Justice Pierre Blais in *Forum des maires de la Péninsule acadienne c. Canadian Food Inspection Agency*.

It has always been my view that section 41 in Part VII of the Official Languages Act is not a strictly declaratory clause but a directory one, which means that it is enforceable.

I note that Justice Pierre Blais went along that line. He also referred to the Canadian Charter of Rights and Freedoms and to remarks by Justice Bastarache in the *Beaulac* case.

The Official Languages Act is a special act of Parliament. The lawmaker does not speak for the sake of speaking. The act does use the word "committed." This is not just a political term. It is also a legal one, and in the context of section 41 and Part VII, it becomes enforceable.

[English]

BRITISH COLUMBIA

FOREST FIRES

Hon. Pat Carney: Honourable senators, I wish to draw your attention to the outstanding service performed by B.C. firefighters and emergency planners in combating some 2,476 forest fires, which threatened lives, devastated communities and destroyed some 250,951 hectares of forest and parkland in the province this summer. The threat is not yet over, with 580 active fires still burning today.

In Kelowna alone, fires have destroyed 238 homes and forced nearly 30,000 people to flee their homes in front of a fire wall of flames. The entire community of Louis Creek, including its sawmill, was consumed by fire, while Barriere, Sun Peak and East Kootenay communities were also damaged or threatened.

Yet, despite the dangers, the fires have been contained, property protected and people evacuated without one single loss of life or serious injury. While firefighters on the ground and in the air have been commended for their bravery and exhausting effort, credit should go to the emergency planners in the operation centres of the various communities whose years of preparation, practise and procedures paid off big time when their expertise was needed to save lives, communities and heritage forests.

We lost a lot in Kelowna and other parts of B.C., but the losses would have been far greater if those backroom planners had not been in place 24/7 for weeks at a time.

On August 28, I visited Kelowna to meet with the mayor, Walter Cray, and some of his councillors to pledge my support for the efforts of our colleague Senator Fitzpatrick, who has been actively involved in seeking funds and help. Kelowna's Fire Chief, Gerry Zimmerman, invited me to visit the fire hall's busy operations centre to view the behind-the-scenes activity. There, I met key personnel like emergency planning official Sid LeBeau, Assistant Fire Chief Rene Blanleil, City of Kelowna engineer John Voss and others.

One of the lessons I learned from them included the importance of emergency preparedness practise sessions. Years of tedious mock emergency sessions resulted in a smooth operation when the real thing came along. Officials told me that while the first phase response to the emergency went well, more attention should be paid to the recovery because one does not get a chance to practise that phase very often.

Another lesson was the need to integrate the various jurisdictions. Kelowna's operation included two regional districts and the city itself, plus fire personnel in Kamloops and nearby municipalities. Agencies such as the RCMP, emergency social services, fire department, public health, B.C. Forest Service and others, such as the Red Cross and the Salvation Army, worked as a team. Fire crews and equipment from other parts of B.C. were quickly dispatched and smoothly integrated in the field. The role of volunteers who staffed the kitchens and sent the food prepared by restaurants out to the fire lines was important.

Next was the need to coordinate communications and all mapping, extensively used in Kelowna to delineate the areas burned or threatened, with everyone using the same sets and systems.

Finally, Chief Zimmerman explained that the role of the media and the need to keep information flowing is vital. He said that the B.C. media did an outstanding job in getting the word out about fire front developments.

The forest fires will spark many debates about forest practices in B.C. and elsewhere, but I hope it ignites more attention to emergency planning and emergency preparedness. Our lives may depend on it.

UNITED STATES

SECOND ANNIVERSARY OF TERRORIST ATTACKS ON SEPTEMBER 11, 2001

Hon. Ethel Cochrane: Honourable senators, last Thursday September 11, marked the second anniversary of the terrorist attacks in the United States that claimed more than 3,000 lives 24 of them our fellow Canadians.

We all remember where we were and what we were doing when we learned of the attacks. For my part, I was in Edmonton attending caucus meetings. I can tell honourable senators, that this memory was fresh in my mind last week as I attended caucus meetings in St. John's and saw many of my colleagues fly home on September 11.

Though our initial shock and grief has eased with the passing of time, there is still a sense of disbelief that such acts could happen in North America. Yet, in the midst of the devastation and the turmoil, September 11 has also come to symbolize hope and goodness. I am, of course, referring to the countless acts of kindness and support that occurred in communities across our great nation.

My province of Newfoundland and Labrador was front and centre for many of these stories. As a result of the hospitality of my province, scholarships were set up for local students by the so-called "plane people"; executives and businesses donated computers and resources to the schools that hosted them; and in every home and community that opened its doors to strangers, friendships were forged.

Two years have passed now, and it seems all the articles and reports have been written on 9/11. However, the many positive stories continue. Again last week, my province welcomed some of those "plane people" back to our shores. They returned yet again to the communities that embraced them in troubled times. For many of these people, it has become an annual visit.

Honourable senators, I applaud all those Newfoundlanders and Labradorians — and, indeed, all Canadians — who welcomed those unwitting guests and provided an example of hope and love to the world during the most difficult of times.

AGRICULTURE AND AGRI-FOOD

BOVINE SPONGIFORM ENCEPHALOPATHY— ASSISTANCE TO FARMERS

Hon. Gerry St. Germain: Honourable senators, I have a brief statement in regard to the presence on the Hill today of ranchers and cattlemen who have come from across Canada. This is not just a Western issue, honourable senators; it is impacting Ontario and some of Eastern Canada, possibly not quite as much as it is impacting certain provinces, but it definitely has had a negative effect right across the agricultural community.

Representatives are here from across the country stating their case, not protesting, as we generally see with regard to many special interest groups or any groups that have been negatively affected by what we can term as a national disaster. Can we imagine that one cow — one cow — develops BSE, and we are faced with this crisis?

I have watched the Prime Minister, Premier Ralph Klein and others, and I see the bewilderment in their eyes that one animal could cause such aggravation in a community. The result has been an international overreaction to what could have been a huge disaster, but has proven to be the scenario of a single, isolated event.

The Department of Agriculture has done a credible job in proving it is an isolated situation. The civil servants who have worked on this crisis under the guidance of the government have done an excellent job.

The government must recognize how this issue is adversely affecting families and people who are completely dependent on the production of beef, as well as the people in the transportation industry, the slaughterhouses and what have you. I know that they are aware of this, and that this is a complex situation, but I am asking the government to really reconsider their position on this matter in view of the fact that Saskatchewan has re-evaluated theirs, as have other provinces. I would like to state again how nice it is to see people coming to the Hill in an orderly, gentle fashion to ask the government for consideration.

• (1350)

ROUTINE PROCEEDINGS

SPAM CONTROL BILL

FIRST READING

Hon. Donald H. Oliver presented Bill S-23, to prevent unsolicited messages on the Internet.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Oliver, bill placed on the Orders of the Days for second reading two days hence.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

Hon. Michael Kirby: Honourable senators, I give notice that at the next sitting of the Senate I will move:

That the Standing Senate Committee on Social Affairs, Science and Technology have power to sit at 2 p.m., Tuesday, October 7, 2003, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

UNITED STATES BALLISTIC MISSILE DEFENCE SYSTEM

NOTICE OF MOTION RECOMMENDING THE GOVERNMENT NOT PARTICIPATE

Hon. Douglas Roche: Honourable senators, I give notice that two days hence I will move:

That the Senate of Canada recommend that the Government of Canada refuse to participate in the U.S.-sponsored Ballistic Missile Defence (BMD) system, because:

1. It will undermine Canada's longstanding policy on the non-weaponization of space by giving implicit, if not explicit, support to U.S. policies to develop and deploy weapons in space;
2. It will further integrate Canadian and American military forces and policy without meaningful Canadian input into the substance of those policies;
3. It will make the world, including Canada, not more secure but less secure.

QUESTION PERIOD

NATIONAL DEFENCE

BRITISH COLUMBIA FOREST FIRES— ECONOMIC COMPENSATION UNDER DISASTER FINANCIAL ASSISTANCE ARRANGEMENTS

Hon. Pat Carney: Honourable senators, I would like to address my question to the Leader of the Government in the Senate. On August 24, the Prime Minister toured B.C.'s Okanagan region, which, like other areas of British Columbia, has been ravaged by historic forest fires this summer. The Prime Minister said that the federal government would work with the provincial government under the auspices of the federal disaster assistance fund to help offset forest firefighting and recovery costs. As we know, this fund, which is essentially bottomless, requires the province to assess the damage and compensate victims and then submit the bill to Ottawa. This procedure was used in the case of the ice storm here in Eastern Canada, and it has been used in New Brunswick with the parasite damage to New Brunswick forests.

Can the minister give us any idea how long this process might be? I realize she may not have an answer today, but people in these communities are waiting for some word on when they can get the funds to rebuild their homes and businesses.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I can say this afternoon, that clearly the assistance fund has been set up with certain criteria. It would appear that British Columbia meets those criteria. However, I cannot give the

honourable senator a detailed plan as to when monies may flow because as of this day, we have not received the assessment from the Province of British Columbia.

HERITAGE

ASSISTANCE TO REBUILD KETTLE VALLEY RAILWAY TRESTLES

Hon. Pat Carney: I realize that, but could the minister find out for us, in the absence of any other avenue, how long this process takes, whether it is months or years? The honourable leader must have some recourse to information.

Similarly, Heritage Minister Sheila Copps was in Kelowna on September 8, to meet with officials about rebuilding the Kettle Valley railway trestles. This an engineering marvel built at the turn of the last century over the canyons of the mountain passes. All but four of the 18 trestles were destroyed. It is a 15-kilometre route and is part of the Trans-Canada Trail. It is a national historic site. The replacement cost is estimated at \$30 million by the Myra Canyon Trestle Restoration Society. The minister has committed her department to help with this cost, but she did not say how much money Ottawa will commit. Could the leader discuss this matter with Minister Copps and let us know how the minister will be honouring this pledge and when the cheque can be expected in the mail?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, let me address the first part of the honourable senator's question, namely, whether it will be months or years. Assessments will be made on a case-by-case basis. Neither the provincial nor the federal government will recognize any cases already covered by insurance. In some cases, individuals who suffer fire damage do not know until after the public sector has done their insurance evaluation what may not be covered by them. I can only say from my personal experiences with the flood in Manitoba for which DFAA did apply that in some cases it took years. Hopefully, those assessments will be done quickly. If the honourable senator has any influence with people in the area struck by this forest fire, I would urge her to convince them to get their applications in as quickly as the province establishes the criteria. Certainly, that was the delay in the province of Manitoba before the dollars began to flow.

Second, with respect to the trestles, the Honourable Minister of Canadian Heritage has indicated their heritage value. She has not heard from British Columbia as to the exact amount of associated costs, but I will urge her to enter into negotiations on a rapid basis.

SOLICITOR GENERAL

ONTARIO—INVESTIGATION OF COLLEGE ON ALLEGATIONS OF ASSISTING IN ILLEGAL IMMIGRATION

Hon. James F. Kelleher: Honourable senators, I have a question for the Leader of the Government in the Senate. A federal anti-terrorism probe investigating 19 men as possible national security threats has found that a Toronto college provided fraudulent letters to foreigners so that they could enter Canada on

student visas, even though they did not attend classes. Ontario Public Safety and Security Minister Bob Runciman announced that the province would conduct an investigation into the province's colleges to ensure that they are not aiding illegal immigration as he has "lost confidence in federal authorities to do the job properly."

Could the Leader of the Government in the Senate tell us if the federal government is lending any assistance to the Ontario Ministry of Colleges and Universities or the Ontario Ministry of Public Safety and Security in their investigations?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I do not know whether any assistance has been requested by the Government of Ontario. They seem to be very busy these days with the provincial election. However, I think it is appropriate to remind senators that while the money comes from the federal government in the support of these colleges, the entire administration is in the hands of the provinces by virtue of a federal-provincial agreement. If the college was not functioning appropriately — and, indeed, it was not because their charter was pulled from them — then that decision is made by the Province of Ontario alone.

Senator Kelleher: Honourable senators, this particular investigation has been confined to Ontario, but it may be worthwhile for other provinces to conduct similar probes into their own colleges to ensure that they are not assisting with illegal immigration or fraudulently receiving federal student loans. Has the federal government suggested to other provinces that they conduct a similar review of their registered colleges?

• (1400)

Senator Carstairs: I do not know that any specific suggestion has been made. I would not want the activities of one college to in any way, besmirch the very positive activities being done by many colleges throughout the country. In this situation, a college was issuing letters that indicated that these individuals were duly placed as students. However, for all intents and purposes, this college did not even exist, except to issue the said letters.

The provinces that administer colleges must be vigilant in ensuring that those that would seek to offer services do that and respond in good faith to all who attend.

HEALTH

RESIGNATION OF FORMER ASSISTANT DEPUTY MINISTER OVER ALLEGATIONS OF FRAUD AND BREACH OF TRUST

Hon. Marjory LeBreton: Honourable senators, my question is for the Leader of the Government in the Senate. In 2001, a former Assistant Deputy Minister of Health, Paul Cochrane, resigned over allegations that he took bribes in exchange for sending \$6 million in grants to a Manitoba native treatment centre. Over the past summer, there have been two developments on this file. First,

the police have formally charged Mr. Cochrane with fraud and breach of trust. Second, we learned that since his 2001 resignation, Mr. Cochrane has been on the payroll of both HRDC and Public Works through consulting contracts.

Could the government leader advise how it came to pass that someone who was forced to step down over bribery allegations could get contracts from not one, but two different government departments?

Hon. Sharon Carstairs (Leader of the Government): As the honourable senator knows, Mr. Cochrane has been charged. The honourable senator has not asked me to speak on that procedure because the matter is before the courts. However, the honourable senator is quite correct: Mr. Cochrane did receive HRDC and Public Works contracts prior to being formally charged. Unfortunately, the awarding of the contracts occurred before there were any public accusations of the criminal intent that he is alleged to have committed.

Senator LeBreton: Honourable senators, that is an interesting answer. This man resigns over allegations, but he is still given contracts. I would like the Leader of the Government in the Senate to assure honourable senators that these contracts were not part of an agreement associated with Mr. Cochrane's resignation.

Senator Carstairs: I can assure the honourable senator that they had nothing whatsoever to do with his separation. I would remind the honourable senator that the allegations came after, not before.

Senator LeBreton: Since 2001, we have had three ministers of Public Works, Alfonso Gagliano, Don Boudria and now, Ralph Goodale, while over this period, there has been one minister in charge of HRDC, Jane Stewart. Two of the Public Works ministers left their positions under a cloud.

Could the government leader advise us whether any of these ministers were aware that Mr. Cochrane was on their payroll and, if so, did they find this acceptable?

Senator Carstairs: I disagree with the honourable senator that the two ministers left under a cloud. They did not leave under any cloud.

As to the contracts awarded to Mr. Cochrane, they were awarded under normal procedures, and I would doubt very much if any of the ministers knew of his previous behaviour that has been alleged. I keep indicating that we are talking about alleged conduct. His contracts were awarded in the normal process of application, receipt and approval.

Senator LeBreton: In view of that answer, one must really wonder what message is sent to hard-working and dedicated public servants when someone who resigns over allegations is then hired back as a consultant.

With that in mind, could the Leader of the Government in the Senate report to the Senate as to the amount of these contracts and what work was performed for them? Could she table all written documents pertaining to this work?

Senator Carstairs: The honourable senator insists that these allegations seem to have been well known. Indeed, they were not well known at the time of Mr. Cochrane's resignation. They did not become known until this summer. This summer, charges were laid. However, I would remind honourable senators at each and every opportunity that, in this country, because of our Charter, one is considered innocent until proven guilty.

Senator LeBreton: That response does not change the intent of my last question. There should be nothing wrong, therefore, with ascertaining the amounts of the contracts, describing the work that the contracts were given for and requesting that all documents be tabled.

Senator Carstairs: I am assuming that that information is available, and I will make it available in a reply to the honourable senator.

NATIONAL DEFENCE

REPLACEMENT OF HERCULES AIRCRAFT— INADEQUACY OF TRAINED MAINTENANCE PERSONNEL

Hon. J. Michael Forrestall: Honourable senators, I wish to direct my question to the Leader of the Government in the Senate. I appreciate very much her word to me earlier this afternoon with respect to the air tragedy. Thank God there were no serious injuries resulting from the helicopter crash in Labrador. If the minister has anything to add to the earlier news, I would appreciate it.

My question has to do with a report to the Department of National Defence this summer noting that two thirds of Canada's 32 Hercules are listed as unavailable due to maintenance backlogs, parts shortages and generally the age of the aircraft. Many of the Hercs date from the early 1960s. The report also casts doubt on the military's ability to continually send the aircraft to support missions abroad. The air force has responded by reducing the flying time of the aircraft from the annual 21,000 hours to 16,200. The priorities, of course, of use have changed significantly.

What plans does the government have to replace these aircraft that are expected to reach the end of their service life by 2010?

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for his questions. Since he has combined a number of issues, let me first indicate, as I had indicated to him when I saw him at the beginning of this sitting, that a Griffin helicopter with a crew of five crashed near Goose Bay, Labrador, earlier today. I do want to inform the house that all crew members are safe, although unfortunately two were injured. Details are still emerging, and a full investigation into the incident will be launched.

In terms of the honourable senator's question with respect to the Hercules aircraft, as he indicated, they are not expected to go out of service until 2010. I do not know if, at this point, 2003, we

are already planning for replacement aircraft, but I will make inquiries on behalf of the honourable senator and report to him.

I do have information for him with respect to questions he asked yesterday about the acquisition of British submarines. The initial approval for \$812 million in 1998 has been added to, by some \$85 million, and the acquisition cost is \$897 million in today's dollars.

The honourable senator also asked the question about why we made a contract with BAE for engineering and supply management. That, of course, was done because we knew it would take time to transfer. He should know that that contract has been amended because it has taken even longer to transfer. As a result, our local expertise has not developed because we have not been servicing those submarines for the most part. That has been done in Great Britain. However, we expect that the majority of maintenance work will be done in Canada by a Canadian industry or by the navy's own fleet maintenance facilities in four to six years.

• (1410)

Senator Forrestall: Honourable senators, I wish I could have such a flood of information about Sea Kings.

As the report I referred to earlier indicated that units wishing to apply for training will have to hire a commercial charter to do so, my further supplementary question would be to ask about the cost of hiring a commercial charter for training purposes.

As well, I should like to know what the government is doing to ensure presently, today, that the lives of the crews that are flying the Hercules crafts are not being put at undue risk?

Senator Carstairs: I thank the honourable senator for his question. As he knows, I do not have that information available, but I will make it available to him as quickly as I can.

Senator Forrestall: One of the reasons cited for the lengthy grounding of the Hercules is the shortage of trained personnel to maintain those aircraft. This, of course, is a chronic, systemic problem throughout the various units of the Armed Forces. In spite of the dire future prospects, we are all heartened by Paul Martin's words that he will correct or deal with these problems immediately. I recognize that "immediately" may mean only six, eight or ten years. What will the government do to address the shortfall in the interim? This is a major problem.

Senator Carstairs: As the honourable senator is well aware, there has been a major recruitment program within the Armed Forces. There has been an acute shortage of pilots, particularly fighter pilots and the federal government has been increasingly active in its recruitment of those pilots. One hopes that the negative effects being experienced by commercial traffic may translate to a positive effect on the Armed Forces, with pilots applying to serve the forces because their opportunities are not quite so vibrant in the private sector.

FOREIGN AFFAIRS

UNITED STATES—EXTRATERRITORIAL APPLICATION
AGAINST CANADIAN CITIZEN OF LAWS
TO COMBAT TERRORISM

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate. It has been reported in the news that a Canadian citizen named Said Ali tried to wire \$116 to a friend in the Netherlands named Mohammed Ali, and the money was impounded by Western Union. Apparently, the name "Mohammed Ali" appears on a U.S. list of names linked to terrorism. The name is quite common in the Islamic world, and there is no information, at least publicly available, that this particular Mohammed Ali has terrorist links. Mr. Said Ali has asked for his money back, and Western Union has refused. Canada's Department of Foreign Affairs has noted that it has protested vigorously against the extraterritorial application of U.S. law, but that more research is needed to discover if this is the situation in this case.

My question for the leader is this: If the Canadian authorities discover that this is, indeed, a misapplication of U.S. law, what steps will the government then take to halt this kind of behaviour in the future? More specifically, what will they do to get Said Ali his money back?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, as the honourable senator knows and has clearly identified, this is a private corporation, but it is a private corporation registered in this country and, therefore, it should not have its policies directed entirely by the American government and certainly not by American law. The Foreign Affairs Department has protested to Western Union and, if it is discovered that this has been done as a breach of supposed American laws, I can assure the honourable senator the protest will go to the highest offices in the United States.

Senator Oliver: Honourable senators, we have our own financial tracking process, of course, in Canada. Can the leader tell this chamber if this particular transaction was one that was considered suspicious by FINTRAC?

Senator Carstairs: I cannot give the honourable senator the information he asks about with respect to FINTRAC. My own knowledge would indicate probably not, because of the amount of money involved here but, to be absolutely sure, I will check and make sure that there was no other form of tracking that would have had our laws apply to this particular situation.

UNITED NATIONS

IRAQ—SECURITY COUNCIL RESOLUTION
ON TRANSITION PROCESS

Hon. Douglas Roche: Honourable senators, my question is to the Leader of the Government in the Senate. Although Canada is not now a member of the UN Security Council, the work of the council in dealing with the future of Iraq is extremely important to Canada.

My question in that regard is: What is Canada's position on the new U.S.-sponsored resolution in the UN Security Council concerning control of the transition process in Iraq? Recognizing that the U.S. insists on maintaining military control, can the minister state that Canada wants the United Nations to have political control of the transition process? Germany and France favour this position. Where does Canada stand?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, as the honourable senator has already indicated, that decision will be made by the United Nations Security Council, of which we are not a member. Having said that, the position of Canada is that we are very pleased that the United States has reached out to the international community.

We have already made substantive contributions to the reconstruction effort in Iraq. We have committed some \$300 million, \$50 million of which has already been distributed to NGOs and \$200 million of which has been specifically put aside for infrastructure construction, buildings such as hospitals and schools. We are very pleased with the contribution that we have made.

We are, meanwhile, conducting detailed discussions with our partners to determine how best we can continue to provide our expertise, and one area of expertise that has been requested and that is being examined relates to the issue of whether our RCMP would be the best group of police officers to assist in the training of Iraqi police officers.

The matter of the United States wishing to have control while, of course wishing to have partners, is being debated thoroughly.

REFORM OF SECURITY COUNCIL

Hon. Douglas Roche: Honourable senators, I thank the minister for her response. That is indeed the issue of the debate now. I repeat my question: Does Canada favour the United Nations having political control of the transition process in Iraq?

As the UN General Assembly begins its general debate next week, will the Government of Canada address the issue of reform of the UN Security Council, which Secretary General Kofi Annan recently said is essential if the council is to play its charter-given role as the primary authority for peace and security in the world?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I do not know what position the Canadian representatives will take during that debate. I would suggest we will simply have to wait to see, but I can assure the honourable senator that I will raise with the appropriate authorities his intervention that we should be taking a position on UN Security Council reform.

Senator Roche: I thank the minister for that.

AGRICULTURE AND AGRI-FOOD

BOVINE SPONGIFORM ENCEPHALOPATHY— UNITED STATES TRADE RESTRICTIONS

Hon. Leonard J. Gustafson: Honourable senators, my question is for the Leader of the Government in the Senate. Those of us who attended the farm rally in front of the buildings today know that there is a real sense of desperation among farmers. We have harped on this so much, that it seems that Canadians have closed their ears to the problem. Probably the most serious problem that Canada faces is mad cow disease. At the suggestion of the government, young farmers have gone out and diversified. They bought cattle and financed them through the banks, and now they cannot move their cattle. It is a very serious problem.

This subject affects every province across Canada. Some people from Ontario gave us some staggering numbers today. It has affected the grain market. Today, barley is worth half of what it was a year ago — just half. Durum wheat is selling for \$2.68. That was the price we got for wheat in 1970. Fertilizer costs have doubled. It is impossible for farmers to meet their input costs and, as a result, there is a sense of desperation.

• (1420)

The World Trade Organization talks on agriculture in Mexico broke down.

Honourable senators, I defeated Ralph Goodale — twice.

Senator Meighen: Maybe he learned something.

Senator Stratton: Go back and do it again.

Senator Gustafson: However, I admit that Mr. Goodale has been a hard worker for the West. He is again saying that the Americans and the Europeans must drop their subsidies. Honourable senator, that will never happen. In fact, the Americans have just put \$90 billion back into subsidies over 10 years. The Americans are committed for 10 years. How can Canadian farmers deal with this situation? They are in a position which they can no longer tolerate. Something has to happen.

Would the government consider sending a trade delegation to Washington? Yesterday, I asked that there be a high-level trade delegation to deal with the cattle situation.

Honourable senators, Paul Martin has stated that there is hardly a commodity in Canada that is not trading north-south across that border and, when that border is closed, we are in trouble. It must be opened somehow. Trade worth \$1 billion crosses that border every day. We now have two log-jammed areas on that border.

Would the government consider holding high-level trade talks with the Americans? If the Americans do not change their minds on this situation, we will be dead in the water.

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for his question. I think all Canadians were extremely disappointed with what happened in Cancun last week. We had been hearing on a fairly regular basis from the United States that the only reason they were putting in all these subsidies

was that the EU had all of their subsidies. Yet, it would appear that the talks failed in Cancun because, all of a sudden, the EU and the U.S. were working together in order to not just have a level playing field for us but — and this is much more important as far as I am concerned, as important as my own country is to me — all the underdeveloped nations of this world are, quite frankly, beyond a state of desperation in trying to get their products to reasonable markets.

Should we consider a trade delegation to Washington? I can assure the honourable senator that I will bring that suggestion forward on his behalf.

As honourable senators know, the government has an ongoing relationship with the United States. However, up to this point, we have been unable to break down certain barriers. There is only so much a country can do to influence another country.

Yesterday Senator Grafstein talked about the very important work that is being done between parliamentarians here and Congressmen and senators on the other side. I believe we must play it in that field as well.

I will take the suggestion forward. Although I am not certain that it will be particularly useful, we should try everything that might be useful.

The Hon. the Speaker: Honourable senators, unfortunately, the time for Question Period has expired.

[Translation]

DELAYED ANSWER TO ORAL QUESTIONS

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table in both official languages a response to questions raised in the Senate on June 3, 2003 by Senator Tkachuk regarding the Superintendent of Financial Institutions—Voyageur Colonial Pension Plan.

FINANCE

SUPERINTENDENT OF FINANCIAL INSTITUTIONS— VOYAGEUR COLONIAL PENSION PLAN— MONITORING OF PENSION PLANS ON WATCH LIST

(Response to questions raised by Hon. David Tkachuk on June 3, 2003)

In May 1994, OSFI was informed by the plan actuary of the sale of business by Voyageur Colonial to Greyhound. OSFI did not know of the sale prior to that time. The sale closed in June 1994. In May 1995, OSFI received an inquiry expressing concerns that the plan might be experiencing financial difficulties. Shortly thereafter, in June 1995, confirmation was received that the plan was in financial difficulty, through the filing of a valuation report and information received from the plan actuary.

Partial termination of the Voyageur plan occurred in March 1995, followed by the full termination of the Voyageur plan in March 1997. Under the terms of the Pension Benefits Standards Act, 1985, OSFI is required to review and approve all termination reports for federal pension plans that are terminating in whole or in part. At the time, OSFI's powers of intervention basically were limited to terminating a plan that was experiencing difficulty. Bill S-3, which was enacted in 1998, has given OSFI a wider range of powers with which to intervene.

Plan members contacted OSFI with their concerns in the fall of 1995, having received notification from the plan administrator that the plan was in financial difficulty.

In the case of the partial termination, 67 members lost 18 per cent of their benefits. In the case of the full plan termination, 146 members lost 14 per cent of their benefits. The remaining 86 members received 100 per cent of their benefits. The differences in the payment of benefits are due in the main to the plan text, which allowed for some categories of members to receive more than others.

In February 1998, plan members asked OSFI to have an audit conducted of the plan to review the circumstances that had led to its termination. In response, PriceWaterhouseCoopers was hired to conduct an audit and delivered its report to OSFI and the board of trustees in February 1999. The report, which is a public document, was made available by the board of trustees to all plan members, on request, shortly thereafter. OSFI determined that no further action was required as a result.

Although each situation is different, the aforementioned activities represented normal practice for OSFI in such matters at that time. No unusual actions were taken in connection with the file.

Hon. Mira Spivak: Honourable senators, Bill C-42 regarding the Antarctic Environmental Protection Act is certainly worthy of support in principle. It will permit Canada to ratify an international protocol known as the Madrid Protocol to protect the relatively pristine and vulnerable environment of the Antarctic. It will require Canadians who conduct scientific research on the continent to abide by its protective measures. It will allow only those scientists and tour operators who have permits issued by the government — permits issued after environmental assessments of their proposed ventures — to legally enter the region.

There is no suggestion that the 37 Canadian scientists and 2 Canadian tour operators working in the Antarctic have not followed the spirit of the protocol on such matters as waste management or protection of flora and fauna. Ratification of the protocol, which Canada signed some 12 years ago, however, is a good step to prevent problems.

The Antarctic, with its 14 million square kilometres of permanent ice and floating ice shelves, is unique. Some 70 per cent of the world's fresh water is bound in its ice cap that is more than two kilometres deep. The ice-free half per cent of the continent has mountain peaks and tiny areas around the coast that are home to hearty species of plants, penguins and seals.

The Antarctic is politically unique. It is the only region of the world where nations have agreed to suspend claims of sovereignty, to prohibit all military activity, nuclear tests or disposal of radioactive waste, and to work cooperatively in scientific research.

The Antarctic Treaty came into effect in 1961. Canada acceded to it in 1988 and has adopted its two conventions to conserve Antarctic seals and to protect other Antarctic marine life.

With this bill and Canada's ratification of the Madrid Protocol, we will be fulfilling another important international obligation. If we are tempted to think of the Antarctic as far removed from our lives and scientific research on the continent as somewhat esoteric, it is worth remembering the events of the 1980s. In May of 1985, scientists of the British Antarctic Survey published an article in *Nature* reporting large and unexpected losses in ozone in the atmosphere above a research station at Halley Bay on the Antarctic coast. Their finding of the hole in the ozone layer was confirmed that August by NASA's Nimbus-7 satellite, which had been taking ozone measurements since the 1970s but had been programmed not to record exceptionally low levels.

The global problem of ozone depletion that scientists had predicted in 1974 was suddenly a political reality. It led to the Montreal Protocol, the international agreement championed by the then Progressive Conservative government of Brian Mulroney, to reduce emissions of ozone-depleting substances. It led to the UV index warnings that Environment Canada now issues routinely. It led Canadians to use high-powered sunscreens to prevent burns and skin cancers when they are out in the summer sun or on winter holidays.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, on Orders of the Day, I would like us to start, under Government Business, with Item No. 2 under Bills, resuming debate for second reading of Bill C-42. Once this item has been dealt with, we can return to the order provided in the Order Paper.

[English]

ANTARCTIC ENVIRONMENTAL PROTECTION BILL

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Christensen, seconded by the Honourable Senator Léger, for the second reading of Bill C-42, respecting the protection of the Antarctic Environment.

The scientific discovery in the Antarctic region has changed our behaviour and has prevented untold cases of cancer. If the global community is to benefit from other future scientific research in the region, its natural environment must be protected to the extent that we can.

The treaties that protect the Antarctic are not fail-safe. They are not designed to last in perpetuity. The suspensions of sovereignty, military activity and mining, for example, extend only until 2041, the result of a 50-year extension in 1991. The agreements, however, are generally protective for now and we should certainly pass legislation that allows Canada to ratify the Madrid Protocol.

• (1430)

Bill C-42 swept through the other place in a single day — an indication of the all-party support it received. There were, however, some questions raised that were not answered in any committee examination of the bill.

Why, for example, do we find it necessary to exempt members of the Canadian Forces from the permitting system it creates? Our briefing books tell us it is consistent with the requirements of the treaty and the protocol. Article 11 of Annex IV, on the prevention of marine pollution, specifies that it does not apply to any warship, naval auxiliary or other state-owned ship used for non-commercial purposes. It does, however, require signatories to adopt other appropriate measures for military vessels that are consistent with the annex. What measures does our military have in place, if need be, to perform its duties without leaving the huge imprint that has been left in our own Arctic region?

Why does our legislation also exempt vessels in the Antarctic for the sole purpose of commercial fishing? Our own scientists at the Bedford Institute have been at the forefront of warning the global community of the massive decline in fish stocks, including large species in the Antarctic. Given the devastation of our cod stocks, why do we not see commercial fishing in the Antarctic as a threat to that environment?

Finally, why has it taken so long to bring forward this proposed legislation? A dozen years have passed since Canada signed the Madrid Protocol. Our briefing books suggest that, among other things, the government had other environmental priorities — the Kyoto Protocol, species at risk legislation and establishing the Arctic council. These are all worthwhile causes, yet they are relatively recent developments in the life of the government.

Honourable senators, this is not a bill that we should delay further and watch die on the Order Paper. However, it would be worthwhile for the Standing Senate Committee on Energy, the Environment and Natural Resources to examine it and gain answers to those basic questions. I hope that we can do that work with dispatch and approve legislation that truly allows Canada to fulfil an important global environmental commitment.

Hon. Rose-Marie Losier-Cool (The Hon. The Acting Speaker): Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Acting Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Christensen, bill referred to the Standing Senate Committee on Energy, the Environment and Natural Resources.

SPECIFIC CLAIMS RESOLUTION BILL

THIRD READING—MOTION IN AMENDMENT— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Robichaud, P.C., seconded by the Honourable Senator Rompkey, P.C., for the third reading of Bill C-6, to establish the Canadian Centre for the Independent Resolution of First Nations Specific Claims to provide for the filing, negotiation and resolution of specific claims and to make related amendments to other Acts, as amended,

And, on the motion in amendment of the Honourable Senator Watt, seconded by the Honourable Senator Gill, that the Bill, as amended, be not now read a third time but that it be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

Hon. Willie Adams: Honourable senators, I rise today to speak to Bill C-6 and in support of Senator Watt's amendment to refer the bill to the Standing Senate Committee on Legal and Constitutional Affairs.

On a couple of occasions, Senators Watt, Sibbeston, Gill and myself met with members of the First Nations, who expressed their concerns about not only Bill C-6, but also other bills. Bill C-6 does not live up to the promises made by the government.

Since the signing of the Constitution Act, 1982, the principal concern of the Minister of Indian Affairs and Northern Development should have been the settlement of land claims.

I agree with Senator Chalifoux, who expressed the view that the Standing Senate Committee on Aboriginal Peoples did an excellent job in its examination of Bill C-6. I had been a member of that committee for over 10 years. However, three or four years ago, I resigned. My resignation had nothing to do with the work of the committee, rather, it had to do with certain concerns I had about the actions of the government relating to a site request by a mining company which involved the rights to explore for minerals on 20 per cent of the land designated for a national park.

Last May there were demonstrations on Parliament Hill when approximately 200 to 300 people expressed their concerns about Bill C-6, Bill C-7, Bill C-9 and Bill C-19. There was also a demonstration in Toronto.

Last April, I participated in a panel discussion in Ottawa hosted by the Assembly of First Nations. All the Aboriginal senators were invited to attend. Senator Sibbeston, Senator Watt, three MPs, John Godfrey from Toronto, Rick Lalibertie from Churchill River, and Clifford Lincoln from Quebec were all in attendance. At that time we heard complaints from the AFN about the House of Commons and the Senate. Delegates felt that their concerns were not dealt with by the Commons committee that studied the bill, and they expressed disappointment that the Senate committee had not travelled to the communities to discuss concerns. We explained to the representatives of the organization it was our intention to help them in whatever way we could.

Honourable senators, the bill may not be the best bill, but it is a step in the right direction. That is why I believe the bill should be referred to the Legal and Constitutional Affairs Committee, so that its members may further study the amendments. The sober second thought of the Senate in this committee may help. That is what we are here for. It is the job of committees of Parliament to listen to the concerns of Canadians before bills are passed. The Standing Senate Committee on Aboriginal Peoples has the specific job of ensuring that the concerns of people in the communities are taken into consideration, and I believe that the committee has done a good job.

• (1440)

Although I am no longer a member of the Aboriginal Committee, I did attend a couple of meetings where I heard witnesses express certain concerns about some of the clauses of the bill. There was some discussion at that time about introducing an amendment but, honourable senators, that never happened. I do know that some of the witnesses are not satisfied with Bill C-6.

In the past, when dealing with proposed legislation which would directly affect people in northern communities, we would travel to those communities to give people the opportunity to express their concerns to the Senate committee. That did not happen with respect to Bill C-6. It seems, honourable senators, that the Senate budget is cut every year, to the extent that there are fewer opportunities to invite witnesses from the communities to travel to Ottawa to appear before our committees. As well, our committees rarely travel to the communities.

Honourable senators, I sometimes think that it will be a long time before people are genuinely concerned about settling Aboriginal land claims. Senator Chalifoux said that 60 per cent of the claims will be dealt with in Ottawa. The settlement of those claims will determine the future of Aboriginal peoples across Canada.

I have some proposals that I would like to have incorporated into Bill C-6. However, I recognize that those will never be a part of the bill. When Minister Nault announced that the bill was to be drafted, every First Nations community expressed some concerns. It might have been a good idea to have invited some of those representatives to outline their concerns before the bill was drafted. Perhaps they could have looked over the draft bill even before it was introduced in the House of Commons.

We, as parliamentarians, should know what Aboriginal people think should be the future for their communities. They could petition us and tell us what they want.

Honourable senators, the cap in the bill is set at \$7 million. That is the amount to do the job and settle the claim.

Nunavut land claims began in the 1970s. Those took us over 20 years, and they cost over \$20 million. How much can you do for \$7 million? A proposed amendment would have raised the cap to \$10 million.

In any discussion of land claims, there is a recognition that the people who live in northern communities are hunters and, as such, they have a concern about the future of the land. People grew up in those areas by living off the land.

A cap of \$7 million is not very much. Today, even \$10 million is not much money. Nunavut land claims started in the 1970's and those cost over \$20 million to settle. Costs may be double today.

Bill C-10B was referred to the Standing Senate Committee on Legal and Constitutional Affairs last December. We tried to find out, through the House of Commons, what was the definition of "cruelty to animals," but it appears that no government department can give us that definition.

If Bill C-6 is passed as it is today, any organization that wants to make a claim will have to wait for five years for changes to be made to the bill. That is a long time, and there is a \$7 million cap contained in the bill.

However, I do not believe that we should kill the bill. We should do the best that we can now. Although some native people have concerns with the bill as it is, they are willing to yield because, with the passage of this bill it may be easier for them to deal with land claims in the future.

Honourable senators, I work here in Ottawa in one culture, and when I go back to my home community of Rankin Inlet, I must adapt to a different, but more familiar culture. It can be very difficult for me. Not everything that we do in Ottawa will fit into the lives of the people in the communities.

I hope the day comes when the government realizes that Aboriginal people have lived on this land now called Canada for thousands of years. We understand how to live on the land. The government told us that the only way we could survive would be to adapt our way of life, our policies, to fit in with the policies of the south. That has been a difficult thing to do.

I expressed these same concerns when we passed Bill C-5 before Christmas. That legislation now impacts upon people in northern communities.

The species at risk studies were done in Ottawa. The government decided that our mammals were at risk and cut the quotas for hunters of polar bears and whales. People in northern communities, who live on the land, have respected those quotas and now hunt fewer polar bears and whales.

• (1450)

The Hon. the Speaker: Senator Adams is asking for additional time. Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Adams: Thank you, honourable senators.

In a local community newspaper last week, there was an article about the many Americans who travel to Nunavut every year to hunt caribou. Under government policy, local guides are not allowed to carry guns. Honourable senators, two Inuit people, who were guiding a group of American hunters who were caribou hunting on the mainland, were attacked by a polar bear that ripped their tent open and chased them. They did not have a gun to protect themselves. In fact, the bear had gotten into the Americans' tent first but, fortunately, it did not attack them. The bear did, however, go after an Inuk who did not have a gun. The Inuk hunter had left caribou meat outside his tent, but the bear showed no interest in eating it.

The Inuk person was attacked by the polar bear. When he fell, the polar bear climbed on top of him and bit his head. The hunter was trying to protect his neck because he knew the polar bear would go for his neck and kill him. The polar bear broke two ribs of the hunter. They say that, if you are attacked by a polar bear, you must not scream, because the bear will know you are still alive. Knowing that, the hunter stopped screaming, stopped calling for help. The polar bear then bit the Inuk's feet, and dragged him down to the seashore by his toe. The hunter had to have over 300 stitches in his head and back. That is the type of horrific situation that can happen if guides are not allowed to carry guns to protect themselves and their clients.

Parliamentarians sometimes pass laws that make no sense to people living in the North.

However, I agree with Senator Chalifoux that we must do what is best. If we help other people and try to make their lives better, we will sleep better at night.

On motion of Senator Stratton, debate adjourned.

COPYRIGHT ACT

BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Gill, for the second reading of Bill S-20, to amend the Copyright Act.—(*Honourable Senator Day*).

Hon. Joseph A. Day: Honourable senators, what I would like to discuss for a short while today relates to the photographic portrait of the Queen that sits outside this chamber. I also received recently a document advertising a showing of Melvin Charney's

work at the Canadian Museum of Contemporary Photography from September 20 to January of next year. I would like to discuss how the Copyright Act impacts on those two items and many others. I hope to be able to convince my honourable colleagues that the Copyright Act needs amendment as outlined in Bill S-20 and that it should be amended immediately to provide the same rights to the portrait photographer of Her Majesty the Queen as if Mr. Charney's pictures had been painted.

[*Translation*]

Honourable senators, it is an honour for me to talk about Bill S-20, to amend the Copyright Act. This bill is the result of efforts by many people, in particular the Canadian Photographers Coalition, which was the first to bring this issue to the attention of a number of senators.

The purpose of this measure is to eliminate the exception to the general rule concerning ownership of copyright that affects Canada's photographers. Because of the exception that currently exists, the owner of the first photograph is deemed to be the author or creator, even if the owner is not really the creator. Since copyright arises from the creation of a work, photographers, under the current law, are not entitled to the rights that creators of other works normally enjoy. The purpose of the bill is to give photographers the same rights and privileges as all other creators of works protected by the Copyright Act.

[*English*]

Honourable senators, copyright is a legal right granted to artists, authors, composers, playwrights and others. It is an exclusive right to publish, produce, sell or distribute literary, musical, dramatic or artistic works. The definition in the Copyright Act of artistic works includes photographs but, as I will explain, there is an exception to the owner of copyright with respect to that particular type of artistic work.

The general purpose of copyright law in our country is to encourage the production of works and their distribution to the public. A comprehensive explanation of copyright is located in a report entitled "From Gutenberg to Telidon," which was produced by the Government of Canada in 1984. I will quote one excerpt to help honourable senators understand what is meant by this legal right of copyright.

The concept of copyright encompasses two types of rights: economic rights and moral rights. An Author's economic rights, e.g. the right to control reproduction and public performances of their works, manifest themselves in the marketplace. They can be bought and sold —

— or licensed —

— like other property rights. Moral rights, which are equally important, enable creators to claim authorship and restrain others from distorting or mutilating their work.

• (1500)

Honourable senators, this legal right, which we call copyright, or "droit d'auteur" in French, is granted to the author or creator of the work, whether the work is a play, a song, a painting or a book. The notion of the author, being the first person entitled to copyright, and that right being free to the author to do with as he will, is a longstanding principle of copyright law in Canada. Section 13(1) of the Copyright Act reads:

Subject to this Act, the author of a work —

— and "work" is defined —

— shall be the first owner of the copyright therein.

That is to say that copyright goes to the creator of the work. As the creator, initially he or she is the owner of copyright. However, there is the exception that I read just now subject to the act. Therefore, when a painter creates a work of art or when a composer creates a piece of music, he or she is the author of that work and can be confident in the knowledge that he or she will have control over how it is reproduced and how it is presented to the rest of the world. Of course, since the right is a commercial right, he or she, the composer, can sell that right or license it.

Honourable senators, when it comes to photographers, there is an exception to this general rule. Even though a photographer may be the creator or the author of the work in the traditional sense, the author's rights to copyright do not necessarily flow to that photographer the way they would to another type of artist. In regard to photography, the law deems someone other than the photographer to be the author.

Section 10(2) of the Copyright Act as it now exists refers to the author of a photograph as the person who is the owner of the initial negative or the owner of the initial photograph, and that person is deemed, in law, to be the author.

Honourable senators will recall that the author is the owner of copyright. Therefore, the act deeming someone other than the creator to be the author, that person becomes the owner of copyright even though he or she may not have taken the photograph, may not have been the person who created that photograph. Hence, in regard to photographs, copyright flows to the owner of the negative.

Why do we have such a difference between those who produce such striking illustrations as those found in photographs by persons such as Yousuf Karsh, Malak Karsh, and in the Maritimes, Freeman Patterson or Ansel Adams, to name but a few photographers? Why are their rights different as creators from those other creators who produce books, paintings or music? Why are photographers treated differently in the act?

The part of the Copyright Act that deals with photographs as an exception to the general rule can be traced back to 1911 in the United Kingdom Copyright Act. That section in the U.K. has long since been changed, but it has not been changed in the Canadian Copyright Act. During that time, photography was

commonly regarded as an industrial operation. This was in the early stages of photography in 1911. The equipment that was used constrained photographers from expressing any form of originality in their work. Photographs were not seen for their artistic merit until years later.

Although our view of photography has changed such that we now view it as an art form, the law has not evolved to reflect that change. The changes that are proposed in Bill S-20 have been recommended on a number of previous occasions. In the 1984 publication I referred to earlier, "From Gutenberg to Telidon," the Department of Consumer and Corporate Affairs, as it then existed, recommended that there be a change in this particular section. The recommendation was that photographers should be treated like any other artists and that subject to any other licences or contracts that the photographer may have entered into with any other person — and that is a commercial aspect — the original photographer would be the original owner of copyright in the work.

Unfortunately, the change was not made in 1984, for political reasons. Honourable senators can guess why, and each one of us would be right in guessing why the amendments to copyright did not take place at that time.

These required changes were raised again during debate on Bill C-32, introduced in Parliament some 13 years later, in 1997. The changes dealt with government copyright reform. Unfortunately, the final version of that bill did not include the changes with respect to the rights of photographers, even though the initial bill had the changes recommended.

Hence, although the desirability for these changes has been recognized for many years, no change has occurred. We have considered these changes long enough. We know that the current regime of law is outdated in relation to this narrow issue, and the time for action is at hand. In fact, the time is now long overdue that the law should reflect the view of society and recognize that photographers are artists.

Honourable senators, virtually every other industrialized nation has corrected this historical exception, including the U.K., from which our law derives. In the United States, the same exception relating to photographers was corrected in 1976; in the U.K., in 1988.

In Canada, copyright laws are constantly in the process of analysis and revision. Most recently, Industry Canada produced a report in October of 2002 entitled "Supporting Culture and Innovation." That report identified this very exception relating to photographers as an outstanding matter requiring change, but to be dealt with in future phases of copyright revision. The report went on to state, however, that this particular issue with respect to photography's exception "may require more immediate attention as the reform process unfolds."

Honourable senators, we have seen that the issue has been debated for over 20 years. Now is the time for reform.

It may take many more years for this historical anomaly of photographers to be corrected, if we do not act upon it in this bill dealing exclusively with this issue. The reason I say that is that copyright is so pervasive, technology is changing so rapidly that it is difficult for the legislation to deal in an omnibus fashion with all of the changes to copyright that are necessary.

I ask honourable senators to deal with this narrow issue that could be easily remedied now rather than wait for it to appear in a massive omnibus bill. I suspect that in 1984, 1987, 1997 and 2002, this small issue gets lost each time given the much bigger issues that must be dealt with.

I would like to quote one item from the 2001-02 Industry Canada report:

The Government of Canada recognized that the rapid pace of technological change and international developments affecting copyright mean that large-scale amendments of the Copyright Act may no longer be the most effective approach to copyright reform.

That is a government statement of a year or year and a half ago.

Honourable senators, I suggest that we deal with this reform now. It is a neat, easy issue to deal with, and there is no logical reason why this anomaly has continued for such a long period of time.

Honourable senators, while I ask you whether we should take a piecemeal approach to copyright reform, I am reminded of the words once used by Dwight D. Eisenhower when he was President of the United States. He stated:

The older I get, the more wisdom I find in the ancient rule of taking first things first — a process which often reduces the most complex human problems to manageable proportions.

• (1510)

I submit to honourable senators, that this is one of those items that we can deal with on a first-things-first basis, and we will deal with many other issues of copyright as they come along. I would urge support of this particular matter at second reading, as other honourable senators have already spoken.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Would the honourable senator take a couple of questions for clarification?

Senator Day: Of course.

Senator Kinsella: Could the honourable senator advise the house as to which minister currently is responsible for the Copyright Act?

Senator Day: There are two ministries responsible. Minister Rock is involved, and Heritage Canada is also involved. With respect to copyright, that is part of the problem. It jumps back and forth between two different departments.

Senator Kinsella: Could the honourable senator advise us as to whether the views of those respective ministers have been canvassed by him? The proposal is to change a provision in the current Copyright Act. Did the honourable senator consult with those two ministers?

Senator Day: Honourable senators, as indicated during my remarks, the policy statement entitled "Supporting Culture and Innovation" is a Government of Canada document of 2002. That document specifically states two things. First, that this section needs to be changed. It is recognized that it needs to be changed. Second, proceeding by way of an omnibus bill, with all of the changes together, might not be the best way to go in the future. On that basis, I have sent a copy of my proposed bill to both Heritage Canada and Industry Canada, and I have not received anything back saying I should not do that.

Senator Kinsella: That is not surprising, because many Canadians write to ministers and never hear back from them.

The bill is clear, and the honourable senator's explication of it is straightforward. It is not very complicated. However, it does raise the question that not one ministry but two ministries are given appropriations to operate and administer the Copyright Act. That raises in my mind the question of whether a Royal Recommendation is required for this bill so that it is in order. Has the honourable senator examined whether this bill requires a Royal Recommendation?

Senator Day: No, I have not. I suspected that might be one of the issues at second reading of the bill. That issue might be studied in more depth at committee stage. I felt my responsibility under the rules at this stage were to explain the general principles of the bill, which is what I have attempted to do.

Senator Kinsella: Unfortunately, I believe that for a bill to be in order at second reading, we need a clear determination as to whether a Royal Recommendation is required for us to proceed. It is not a matter for a committee. Before we can adjudicate on the principle of the bill, we would need to know whether a Royal Recommendation is required.

I simply raise this issue because there are two ministries involved. If we examine the Estimates for the Department of Industry and for Heritage Canada, a significant budget item is associated with copyright. Therefore, there may very well be a serious question here of the Royal Recommendation.

Hon. David Tkachuk: So that I understand this subject better, if a photographer is taking family portraits, working for a photography studio, under the law now, I assume that when that photographer leaves the employment of the studio, the pictures of the family stay with the studio. Is the honourable senator saying that when this legislation is passed, that photographer will be able to take those family pictures unless there is an agreement made otherwise between the studio and the photographer?

Senator Day: No, I am not saying that. Another section of the Copyright Act states that if someone is in the employ of another company, the studio in the honourable senator's example, there is an implied contract, in effect, that the photographer is working for the company. The company owns the photographs unless there is something to the contrary. A section of the act that we are not proposing to change provides for this implied contract between an employee photographer and the company.

Senator Tkachuk: In the case of a news photographer working for *The Globe and Mail*, when he or she takes a picture under the present law, does the picture belong to the photographer for all future use or to *The Globe and Mail*? Describe the situation as it exists now, and then tell me what would happen if this bill were to pass. I am somewhat confused. It is not as easy as my honourable friend makes it out to be, but he has been at it longer, I think.

Senator Day: I did not hear that last comment.

Senator Meighen: It is just as well.

Senator Day: If the photographer were an independent and took these photographs for *The Globe and Mail*, under the current legislation *The Globe and Mail* would be the owner of copyright. If the photographer were an employee of *The Globe and Mail* as opposed to being an independent, there would be no change. *The Globe and Mail* would own the photographs in both instances.

Going back to the first instance, if the photographer is an independent and the photograph is taken for *The Globe and Mail*, under the proposed change, if *The Globe and Mail* were not smart enough to enter into a contract with that photographer to allow it to use the photograph again and to make whatever changes to the photograph it wanted, the photographer would be the owner of copyright and would be able to sell that photo to other people.

Senator Tkachuk: In other words, under the present law, the independent photographer could sell it to *The Globe and Mail* under provision that he continue to own the photograph, could he not?

Senator Day: He could. The honourable senator is quite right. The photographer could do so, but it would be necessary for him or her to have a signed contract with *The Globe and Mail*.

If a painting were done for *The Globe and Mail*, copyright would remain with the painter without the necessity of a contract. *The Globe and Mail* could only use the painting for the purpose for which it initially purchased the painting.

Senator Tkachuk: Under the present law, it is if the photographer is smart enough, and under the future law, it is if *The Globe and Mail* is smart enough. That is the only difference.

Senator Day: The purpose of this bill is to put all artists on the same footing and not to make a distinction as to whether the art in question is a photograph or a sketch or a painting. The purpose of the bill is to treat everyone the same and not have an exception in the rules that puts a photographer in a different or weaker position commercially than other artists.

• (1520)

Hon. Eymard G. Corbin: Honourable senators, I would like the sponsor of this bill to clarify one matter. The exchanges so far have been dealing with artists, commercial photographers, commercial studios, press reporters, photographers and so on and so forth. I never heard the honourable senator mention once "amateur photographers" or "serious amateur photographers." Surely they are included in the bill.

Senator Day: The honourable senator is absolutely right. If an amateur painter paints a painting or an amateur writer writes a song, that amateur owns the copyright as much as a professional would.

Senator Corbin: Traditional photography is a mechanical, reproductive system. Now, by way of the Internet, we are dealing with a totally new type of creativity and expression. In terms of traditional photography, is the bill aiming to copyright the negatives or prints or both?

Senator Day: Copyright is the right to produce or reproduce. With respect to photography, the definition is that there is copyright in the negative. If there is no negative, then copyright is in the initial print or in whatever other mechanical or electronic means is used to make the impression on the medium. It is all covered by the definitions of "photograph" and "artistic work."

Hon. Terry Stratton: Honourable senators, it is funny that this bill is numbered S-20. I had Bill S-20 in the last session dealing with the appointments of certain individuals to positions such as judges and senators, to name but two.

Senator Tkachuk: I am sure we will be as cooperative on this one.

Senator Stratton: That bill required an interpretation by the Speaker of a Royal Recommendation; I will get to that moment. That bill is Bill S-4 in the current session, but I will keep at it. I will keep going. If the bill is not passed this session, it will be introduced again.

When the honourable senator talked about the requirements for this bill, my initial reaction was positive because there have been cases in law where photographers have tried to do something about their work but have not been successful because someone else owns the print.

Compact discs can now be downloaded from the Internet. One company from the recording industry has recognized the problem as virtually unsolvable and so has reduced its prices by 50 per cent to entice people back into buying CDs.

In one case, a young girl was fined \$2,000 by the courts for such downloading behaviour in the hopes that it would frighten other people away from downloading. How does the honourable senator see us addressing that concern? I can see exactly that problem developing here because many of the photographs taken these days are taken electronically and are transmitted over the Internet. How does the honourable senator see this bill as resolving that issue? Has he thought about that problem?

Senator Day: This bill will deal with that issue only indirectly. The honourable senator will be aware of several court cases on the downloading of copyright material, particularly in the United States where the law is a little more clear in relation to the ownership of copyright.

This bill will deal with the issue of photograph ownership. It will not deal with whether it is an infringement of a particular right to download for personal use or for educational purposes. That issue is being addressed by the courts now with respect to CDs, with respect to songs and with respect to movies that are downloaded and shared. The issues surrounding that entire industry are now working their way through the court system.

Senator Stratton: I understand that the honourable senator does not feel that this bill should address that issue at all.

Senator Day: Honourable senators will recall that I talked about a review of the Copyright Act as a result of the mandatory five-year review in the existing act. In supporting culture and innovation, the Government of Canada deals with many different copyright issues. I referred to the issues of rapidly advancing technologies and the changes in international trade, all of which will come forward. I felt that it would be better to deal with this very narrow issue and get it behind us.

I look forward to debating all of the other copyright issues as they come to us with recommendations from the departments.

POINTS OF ORDER

Hon. Terry Stratton: Perhaps I could ask Your Honour to determine whether this bill requires a Royal Recommendation.

The Hon. the Speaker: I will take that question as a point of order. I see another questioner. Perhaps we could deal with that before I move to whomever wants to adjourn debate, if anyone does.

Hon. Eymard G. Corbin: Your Honour, on the point of order —

The Hon. the Speaker: Honourable senators, to clarify, we are in the process of finishing Senator Day's 45-minute time allotment, and we are dealing with questions. Senator Kinsella has asked whether a Royal Recommendation is required. I suggested we deal with further questions first. If we get to the point of order, then I must stop taking further questions.

I will leave it to Senator Corbin. Does he want the point of order to be dealt with now?

Senator Corbin: I am prepared to come back to it. I do not think it is a valid point of order.

The Hon. the Speaker: Honourable senators, we will finish the questions and then I will deal with the point of order.

Hon. Wilfred P. Moore: Honourable senators, I have a question. If a photographer takes a photograph of a

copyrighted work or of a trademark, how is that act handled in this bill? How is the holder of that copyright interest or that trademark interest protected in this bill?

Hon. Joseph A. Day: I thank the honourable senator for his question about the *Bluenose*.

The issue of trademark and the interrelationship of trademarks versus copyright is a very complicated area. Copyright material that is put on public display, such as a statute, such as a boat, material that may be trademark protected, can be photographed if that material is intended for public display. The photographer would then, with this amendment, have ownership in the copyright of the photograph.

That is as far as I can go in answering the honourable senator's question. Trademark protection and copyright protection are two different rights; they can exist together. Sometimes, for example, permission will be required from two different people to deal with something. For example, in the score for a song, the lyrics can be owned by one person, the music by another and a third person could own a copyright for the manner in which it is produced.

• (1530)

I referred you to the Canadian Museum of Contemporary Photography where Melvin Charney has an exhibit exploring "the central place of photography in Charney's multidisciplinary approach..." — and I thought this was quite interesting — "...from photographs to montages to painted photograph-based works."

It is quite conceivable under the existing act that someone would own copyright in the photograph that he has taken, other than himself, but he owns copyright in the painted portions or the changes he has made to that photograph. It is not inconceivable to have two different owners involved, one being the owner of the trademark and one being the owner of the copyright.

Senator Moore: I take it then the answer is that if a photographer took a photograph of an original painting, the photographer would own the copyright in the negative. That would not extend to the image or the subject matter of the negative. In order for the photographer to commercially use that negative bearing someone else's copyrighted material, he or she would have to go to the person who owns the copyright in that work.

Senator Day: I agree with that.

Senator Moore: If that is so, then I would ask if the act has specifically provided for that. I have not looked at the act since June. I did not see a provision in there that the subject matter could be the intellectual property of others.

Senator Day: That is not specifically in the act because the act deals with a much narrower issue. I agree with the honourable senator's understanding of the law, that there can be and would be, in this instance, a photographer owning copyright in his or her

work, but that work might also be subject to someone else's intellectual property copyright. That is my understanding of the law as it exists. That is how it will exist in law if this chamber and the House of Commons are inclined to pass this bill.

The Hon. the Speaker: Honourable senators, to clarify, this is the first speech in this debate. The second speech may take 45 minutes and we would normally recognize a member of the opposition for the adjournment. However, before we do that, we have a point or order.

Senator Stratton: I would note that Senator Beaudoin had stood to adjourn the debate, but he has since had to leave the chamber. I would like that to be recognized, because it should be in order that a member of the opposition speak next.

My question with respect to the Royal Recommendation may sound facetious, and perhaps it is. However, I think there is a question here about whether this bill requires a Royal Recommendation. Bills are often introduced in this chamber without question; they are simply accepted. On occasion, we should ask if that question should be addressed. I will delve into no further. However, on occasion that may be warranted.

Senator Corbin: Honourable senators, I think the suggestion that this bill ought to be examined in light of the requirement for a Royal Recommendation is full of holes. There is nothing in this bill that would entail a specific, votable budgetary item to bring into force the disposition of this bill.

This bill simply seeks to introduce a straightforward amendment to an existing statute that deals with order and good government. It does not deal with a specific expenditure. If honourable senators take the time to read the summary, the amendments and the explanatory notes, that will be very clear. Absolutely nothing in this bill would require a specific itemized budgetary item. Therefore, that negates the suggestion that it could possibly require a Royal Recommendation.

On a larger issue, are we to automatically ask the Speaker to rule on whether a new bill requires a Royal Recommendation, in those simple terms, or will we advance arguments in debate to demonstrate that, indeed, the bill requires a Royal Recommendation? I have not heard that from either Senator Kinsella or from the opposition whip. I think the house is entitled to hear that sort of argument before we ask the Speaker to rule on the matter — at least I would like to hear that argument.

The Hon. the Speaker: I see no honourable senator rising. Unfortunately, I do not have the bill before me and I should have an opportunity to look at it.

Two questions have been raised. Does the bill require a Royal Recommendation? That would be the case if an expenditure of money were required. As Speaker, I do not have the bills in a desk in front of me as honourable senators do. Perhaps that should be arranged so I may deal with matters like this more expeditiously.

You have raised another important point, and that is: Is it necessary to suspend the debate for a day in order that I may read it and rule on the point of order?

Any time a point of order is raised, the Speaker must take it seriously. That being the case, I will read the bill and rule on the two questions and those are, whether there is a need for the Royal Recommendation and Senator Corbin's question about how expeditiously a matter should be addressed. I will take the matters under advisement.

Senator Robichaud, do you wish to speak to this point or order?

[Translation]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I refer to the question raised by Senator Corbin on the subject of the argument that you should make a decision. That is basically what he was asking. The honourable senators asking for this decision have provided enough information for His Honour to make a decision.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): I asked the question in order to find out if the bill's sponsor had consulted with more than one minister, that is, the Minister of Industry and the Minister of Canadian Heritage. He has sent them copies of his bill.

I am well aware that Parliament has voted a budget for each of these departments, and I know that there is a vote on the budget of the Minister of Industry for administration of the department. It was an amendment to the Corporations Act. The responsibility remains in the hands of the minister responsible.

• (1540)

These two departments have already earmarked funds for this. In my view, there is a connection between this amendment to the bill and this sum of money, which may be changed.

I have not received a specific answer on this. That is why I am asking whether this was necessary or not. It would be nice if at least one of the two departments replied to the letter the senator sent them, if only to thank him for the bill and tell him they agree with it. Or, if this is a problem for the department, it could apologize to the senator and explain that this is the responsibility of the executive council — cabinet — and not of an individual legislator.

Our colleague has not received anything from either minister. That is why I am opening up this question. Those are my arguments for asking this question.

[English]

The Hon. the Speaker: As I indicated a moment ago, I have the bill now, but I have not read it. I will read it and I will take into consideration all the matters raised and bring back a ruling very quickly. The matter of adjourning debate will be dealt with afterwards.

This goes to the question as to whether the matter is properly before us. That must be resolved before another step is taken. I will remember that Senator Beaudoin wishes to adjourn the debate.

COMPETITION ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Kirby, seconded by the Honourable Senator Cook, for the second reading of Bill C-249, to amend the Competition Act.—(*Honourable Senator Kirby*).

Hon. Michael Kirby: Honourable senators, in rising to speak to Bill C-249 —

The Hon. the Speaker: I give notice to all honourable senators that if Senator Kirby speaks now, his speech will have the effect of closing the debate. If no other senator wishes to speak, I will see Senator Kirby.

Senator Kirby: Honourable senators, in my remarks on Bill C-249 and in Senator Eyton's response, we both indicated support for the principle of the bill, which is an amendment to the Competition Act. We also both raised some technical questions that can best be answered in committee. Therefore, if the chamber votes second reading of the bill, it would be my intention to immediately move that the bill be referred to the Standing Senate Committee on Banking, Trade and Commerce.

Senator Robichaud: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Kirby, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

[Translation]

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, since several committees usually meet at 3:30 p.m. on Wednesdays, I move that all the items on the Order Paper be postponed until the next sitting of the Senate as they stand, except for Item No. 142, the motion by Senator Meighen, who wants to move it today.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

[English]

NATIONAL SECURITY AND DEFENCE

MOTION TO AUTHORIZE COMMITTEE TO STUDY VETERAN'S SERVICES AND BENEFITS, COMMEMORATIVE ACTIVITIES AND CHARTER—DEBATE ADJOURNED

Hon. Michael A. Meighen, pursuant to notice of June 19, 2003, moved:

That the Senate Committee on National Security and Defence be authorized to undertake a study on:

(a) the services and benefits provided to veterans of war and peacekeeping missions in recognition of their services to Canada, in particular examining:

- access to priority beds for veterans in community hospitals;
- availability of alternative housing and enhanced home care;
- standardization of services throughout Canada;
- monitoring and accreditation of long term care facilities;

(b) the commemorative activities undertaken by the Department of Veterans Affairs to keep alive for all Canadians the memory of the veterans achievements and sacrifices; and

(c) the need for an updated Veterans Charter to outline the right to preventative care, family support, treatment and re-establishment benefits;

That the Committee report no later than June 30, 2004.

[Translation]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I move that the rest of the debate on this motion be adjourned until the next sitting of the Senate.

On motion of Senator Robichaud, debate adjourned.

The Senate adjourned until Thursday, September 18, 2003, at 1:30 p.m.

Wednesday, September 17, 2003

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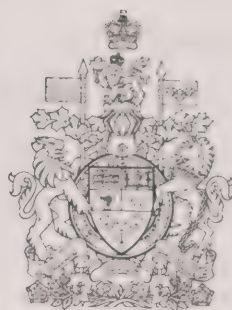
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(HANSARD)

Thursday, September 18, 2003



THE HONOURABLE DAN HAYS
SPEAKER



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THE SENATE

Thursday, September 18, 2003

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

ONTARIO

TORONTO—SEVERE ACUTE RESPIRATORY SYNDROME CONCERT

Hon. Consiglio Di Nino: Honourable senators, on Wednesday, July 30 of this year, the City of Toronto hosted one of the largest events in recent memory. The SARS concert brought together half a million people. It was truly an enormous undertaking and, contrary to the naysayers, it was an enormous success. The event went a long way toward revitalizing the spirits of Toronto during a very difficult summer.

Honourable senators, I rise today to congratulate one of our colleagues, Senator Grafstein, as well the Member of Parliament for Toronto—Danforth, Dennis Mills, for their tireless effort toward making this event such a great success. They worked against many odds. They paid no attention to the naysayers. They helped create this wonderful, historic event for the City of Toronto. On behalf of all Torontonians and, indeed, Canadians in general, I want to express our gratitude.

Honourable senators, I also believe it is important to applaud the Toronto Police Service for its professional and effective handling of this event. All around, it was a job well done. To them, I say, congratulations and thank you.

[Translation]

HERITAGE

VALIANTS MONUMENT PROJECT— APPROVAL OF FUNDING

Hon. Michael A. Meighen: Honourable senators, during the summer adjournment, the Minister of Canadian Heritage, Sheila Copps, announced funding for the Valiants Monument. I congratulate the minister for her prompt and positive reaction to the report by the Sub-committee on Veterans Affairs in connection with this project.

[English]

Senators may recall that our subcommittee took up the cause, led by Mr. Hamilton Southam, which was promoting the Valiants project at a moment when their proposal seemed to be derailed by the Ottawa bureaucracy. We held hearings allowing the Valiants Group to come forward to explain their funding needs and how they could be met with some government support.

We issued a short report endorsing the project to commemorate our history, as we struggled as Canadians for our freedom and independence over the last four centuries. We believed that the erection of statues here in Ottawa to remember our nation builders was important in assisting Canadians to remember and celebrate their history. We tabled our report in the Senate in December 2002, and it has been spoken to by many honourable senators.

I am pleased now to acknowledge that on August 13, the government consented to provide funding for the Valiants monument project, which will consist of interpretive panels featuring 14 valiant figures who have made a significant contribution to Canada's military history. The unveiling date is scheduled for August 2005.

I want to thank in particular Deputy Chair Senator Day and all the members of our subcommittee for their diligent and timely work on this project.

I must say, honourable senators, that we are doing rather well in this small, little committee. As many senators will know, our investigation into the medical problems faced by Major Henwood and detailed in our report entitled "Fixing the Canadian Forces' Method of Dealing with Death or Dismemberment" has resulted in an unprecedented legislative change addressing most of the problems we raised.

Honourable senators, the Senate really does have an influence. The Senate really does matter and can effect change when it brings light to bear on inequities that inevitably rear their ugly heads.

LIBERALISM

Hon. Gerry St. Germain: Honourable senators, I want to express my gratitude to the Prime Minister for recently defining very clearly the objectives of liberalism in the advice he gave to his successor. Liberalism is about taxing Canadians and spending their tax dollars to shape a social agenda dictated by government. Liberalism, in whatever form one chooses to support it, under whichever leader, the current Prime Minister or his successor, is about social engineering. It is about controlling the lives of Canadians to shape their attitudes, their values and their actions. It is about redistributing wealth on a grand scale and not about creating new wealth.

The outgoing Prime Minister, in *The Globe and Mail* of September 17, 2003, advocates what he calls "an agenda of large public investment, none of which will be cheap." Government need not worry, though, as the Prime Minister pointed out that there will be no tax cuts in the future. Canadians will finance this spending. They will pay, and pay dearly.

• (1340)

The liberal agenda, bankrupt of morals, focused on social engineering and central government control, will be financed by the Liberals unilaterally, robbing wage-earning Canadians of their freedoms. The ultimate freedom lost to this philosophy is the freedom to decide how, when and where to spend taxpayers' hard-earned wages. A Liberal government will make those decisions for Canadians. They will create artificial budgetary surpluses by overtaxing ordinary Canadians, and they will recklessly and without accountability spend those hard-earned dollars on a cynical social agenda. Their spending will be aimed at two objectives: perpetuating their political dynasty and creating their notion of a liberal Canada.

Honourable senators, I appreciate the Prime Minister's candour. He has laid out clearly the devastating liberal agenda. During the next election when Mr. Martin, his successor, tries to hide behind an aura of new-found commitment to responsible government, fabricating a contrast with the past, Canadians will see differently. The choice will be clear: arrogant liberalism of the tax-and-spend variety with a further erosion of freedoms, or a respectful government that admits they have no money of their own to spend, only your money, the taxpayers' dollars, which they will manage wisely. Canadians will make the right choice.

[Translation]

ROUTINE PROCEEDINGS

PRIVACY COMMISSIONER

2002-03 REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the honour of laying upon the table the report of the Privacy Commissioner for the fiscal year ending March 31, 2003, pursuant to the Privacy Act.

[English]

PUBLIC SERVICE MODERNIZATION BILL

REPORT OF COMMITTEE

Hon. Lowell Murray, Chair of the Standing Senate Committee on National Finance, presented the following report:

Thursday, September 18, 2003

The Standing Senate Committee on National Finance has the honour to present its

EIGHTH REPORT

Your Committee, to which was referred Bill C-25, An Act to modernize employment and labour relations in the public service and to amend the Financial Administration

Act and the Canadian Centre for Management Development Act and to make consequential amendments to other Acts, has, in obedience to the Order of Reference of Friday, June 13, 2003, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LOWELL MURRAY
Chair

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Day, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

PERSONAL WATERCRAFT BILL

REPORT OF COMMITTEE

Hon. Tommy Banks, Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

Thursday, September 18, 2003

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

NINTH REPORT

Your Committee, to which was referred Bill S-10, An Act concerning personal watercraft in navigable waters, has, in obedience to the Order of Reference of Tuesday, February 25, 2003, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

TOMMY BANKS
Chair

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Banks, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

ANTARCTIC ENVIRONMENTAL PROTECTION BILL

REPORT OF COMMITTEE

Hon. Tommy Banks, Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

[Senator St. Germain]

Thursday, September 18, 2003

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

TENTH REPORT

Your Committee, to which was referred Bill C-42, An Act respecting the protection of the Antarctic Environment, has, in obedience to the Order of Reference of Wednesday, September 17, 2003, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

TOMMY BANKS
Chair

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Christensen, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

CRIMINAL CODE

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-250, to amend the Criminal Code (hate propaganda).

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Joyal, bill placed on the Orders of the Day for second reading two days hence.

CANADIAN NATO PARLIAMENTARY ASSOCIATION

SPRING SESSION OF NATO PARLIAMENTARY
ASSEMBLY, MAY 24-28, 2003—REPORT TABLED

Hon. Jane Cordy: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian NATO Parliamentary Association, which represented Canada at the Spring Session of the NATO Parliamentary Assembly held in Prague, the Czech Republic, from May 24 to 28, 2003.

QUESTION PERIOD

NATIONAL DEFENCE

HMCS VILLE DE QUÉBEC—REQUEST FOR HELICOPTER

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, notwithstanding that our distinguished colleague Senator Forrestall is not here, we would not want the

Leader of the Government to think that this side remains unconcerned about helicopters.

Honourable senators, after the spring break, I had the honour to participate in the Department of National Defence parliamentary program and had a deployment with the Royal Canadian Navy. I went to sea for a couple of weeks aboard the HMCS *Ville de Québec*, which was escorting the submarine HMCS *Victoria* from Halifax to Panama. It was being transferred to the Canadian Forces base in Esquimalt.

• (1350)

The good news is that *Victoria* made it to Panama, but only after it had to make a call at the American submarine base at Canaveral for repairs. However, HMCS *Victoria*, its officers and crew, suggested that I find out from the government — given the fact that it has been four years since that frigate has had a Sea King on its flight deck — when the government might be able to make available a Sea King helicopter, or its replacement, so that the flight deck of the HMCS *Ville de Québec* could, once again, accommodate a helicopter?

Hon. Sharon Carstairs (Leader of the Government): As always, I welcome questions about the helicopter project and, in particular, I appreciate the honourable senator sharing his experiences as a seaman aboard one of Her Majesty's vessels at sea.

The technical pre-qualification phase of the Maritime Helicopter Procurement Project is underway, and it is now anticipated that we will meet our target of selecting the winning bid in 2004. I know that all honourable senators are extremely excited about that.

As far as the Sea Kings are concerned, as the honourable senator knows, there has been a reduction in the active service of the Sea Kings. I do not think that HMCS *Victoria* should expect one in the near future.

Senator Kinsella: I am sure the *Victoria* does not expect one since it is a submarine, but with this government maybe our submarines will not be required to submerge and they could serve as flight platforms.

FOREIGN AFFAIRS

UNITED STATES—COMMENTS BY PRIME MINISTER ABOUT PRESIDENT

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, as a result of a request from the Department of Foreign Affairs, the frigate HMCS *Ville de Québec* made a courtesy call at the Port of Savannah in Georgia. As we sailed up the Savannah River to come alongside, a message was received from the Americans on shore, which I would be happy to table. It stated that Canadian sailors would be welcome in Savannah, provided they did not repeat the comments of their Prime Minister concerning their President.

Has the Government of Canada adopted a special program to ameliorate the relations between Canada and the United States and, in particular, between the President of the United States and the Prime Minister of Canada; or is that the exercise that is underway this weekend?

Hon. Sharon Carstairs (Leader of the Government): With the greatest respect, I do not believe any comment was made by the Prime Minister of Canada that was anything but respectful to the President of the United States.

RECENT CASES OF INCARCERATION AND MALTREATMENT OF CANADIAN CITIZENS

Hon. Consiglio Di Nino: My question is addressed to the Leader of the Government. There have been a number of incidents recently creating a pattern of disrespect for Canadian citizenship and Canadian passports by a variety of countries, such as the case of William Sampson in Saudi Arabia, the tragic death of Zahra Kazemi in Iran, the recent detainment of Maher Arar in Syria, and numerous abuses in China against Canadians who practise Falun Gong.

Could the minister give this chamber an update on our government's progress in these cases, particularly on the death of Ms. Kazemi? Have the perpetrators of the atrocities committed against her been identified and dealt with appropriately by the Iranian authorities?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, before I address the specific question that the honourable senator has put, it is appropriate that I put some background before this chamber.

It is important to understand that, at the present time, there are nearly 3,000 Canadians incarcerated in 120 countries around the world. That is why we must have consular and ambassadorial services in as many communities as possible, and they must respond to requests for services by Canadian citizens.

To be fair, of those 3,000 Canadians, almost three-quarters are in jail in the United States, and many of those for drug-related offences. They, too, need to know that they have consular protection, which is why I am particularly pleased this week that we announced seven new consuls to be located in the United States.

To answer the very serious question that the honourable senator has put with respect to Madam Kazemi, as he knows, the Iranian government has been less than forthright in making information available, which is the reason for the request of our ambassador to return to Canada. We have and will continue to call for a full investigation, and we are working with other countries to support us in that endeavour.

We have also and will continue to ask that her body be exhumed and returned to Canada, where her closest-living relative, her son, wishes her to be buried.

Senator Di Nino: Honourable senators, it is indeed a very serious situation, and I thank the minister for her response. I believe the weight of this chamber should be presented to the cabinet table when the leader represents us there on this issue.

I am also aware that many Canadians are being held in prisons around the world. These cases, however, have a specific difference. No criminal charges were laid. These individuals did not commit crimes. These individuals were detained, persecuted in one case and, of course, brutally murdered in another.

Could the minister tell us if there are other known cases of this type around the world, cases of Canadians who are being held, other than those who are being held because of the commission of criminal offences?

Senator Carstairs: Honourable senators, because there are such cases, we must have an active consular service. As the honourable senator knows, recently we had such a case in Lebanon. Fortunately the military tribunal there decided that the individual should be expelled from the country and he immediately returned to Canada without particularly positive reports about his experience in that country.

The honourable senator is quite right to distinguish, of course, between those who are incarcerated for offences under the criminal codes of a variety of countries, and those who, for example, Madam Kazemi, are arrested in a country for no apparent violation of any criminal law.

• (1400)

To add to the complexity — and as was the case with Ms. Kazemi — we must examine what happens when a Canadian returns to their country of origin and is not only a citizen of this country, but also remains a citizen of the country to which they return. That was the situation with respect to Ms. Kazemi.

I am not convinced — and I will urge the Minister of Foreign Affairs to make this a broader basis of understanding — that individuals who hold dual passports are aware that their rights can in many cases be diminished when they return to their country of origin. They are not perceived to be Canadian, as in the case of Ms. Kazemi. She was perceived to be Iranian because of her Iranian passport.

Those who hold dual citizenship do so proudly. It is their wish to hold both citizenships. However, I am not convinced that they are aware that sometimes there may be a danger.

IRAN—INCARCERATION AND DEATH OF CANADIAN CITIZEN—FILING OF COMPLAINT WITH UNITED NATIONS

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): In the case just raised by my colleague Senator Di Nino, Iran is party to the International Covenant on Civil and Political Rights, as is Canada. Pursuant to that covenant, under international human rights law, Canada is a state party and has the opportunity to file a complaint before the United Nations Human Rights Committee for a violation of human rights in Iran, whether perpetrated upon a Canadian citizen, a person with dual citizenship or an Iranian national.

My question to the Government of Canada is: Will Canada exercise its right to file a complaint before the United Nations Human Rights Committee against Iran for this gross violation of human rights?

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for his question. I must tell him that I do not know if we have yet filed that complaint or whether a decision has been made one way or the other. I will return to him with an answer.

CITIZENSHIP AND IMMIGRATION

COMPLICATIONS OF DUAL CITIZENSHIP

Hon. C. William Doody: Honourable senators, my question has been somewhat anticipated by the Leader of the Government, as it relates to the common denominator in the cases that Senator Di Nino cited. All these people had dual citizenship. They had passports from Canada and some other country. Would the minister explain to me what advantage it is to Canada or to the Canadian public to have people who are citizens of two countries carrying a Canadian passport?

I am probably being too simplistic, but it seems that if you are a Canadian, you are a Canadian. If you are a citizen of some other country, you are a citizen of some other country. Having two passports leads to endless complications and does not seem to benefit anyone, either the bearer of the passports or Canadians generally. Could the minister explain where I am adrift in this assessment?

Hon. Sharon Carstairs (Leader of the Government): The desire to have two passports primarily comes from individuals who wish to maintain their contact with the country from which they originated. Sometimes it is for family reasons. I know of a number of people who maintained their Canadian citizenship when they moved to the United States because of their affiliations. I know of a number of people who have come from the United States and have kept their American citizenship. In this country, we have made it possible for them to maintain dual citizenship.

In some cases, with young children, for example, they maintain dual citizenship until they are 21. When they become of age, they may choose to exercise one citizenship or the other. In other cases, they have dual citizenship for a lifetime.

As the honourable senator will know, such a decision is a personal matter. I spent time living in the United States. My mother was born and raised in the United States, but I chose to be Canadian only.

FOREIGN AFFAIRS

UNITED STATES—CANADIAN CITIZEN DEPORTED TO SYRIA

Hon. Marcel Prud'homme: Honourable senators, Senator Doody has touched on a point that has been of great concern to me for 40 years. My first committee in the House of Commons was the Immigration Committee, and we discussed the question of dual citizenship. Eventually, I think this subject must be reassessed and re-evaluated, even if we come to the same conclusion.

While the Leader of the Government in the Senate is studying the questions raised by Senators Kinsella and Di Nino, could the minister inform us why there is not an interest in the Senate for a Canadian citizen who happened to land in the United States of America and was shipped directly to Syria, where he is in jail at the moment? He was not treated as a Canadian citizen.

While I am not speaking to the subject matter at hand, I do find it strange that no one sees fit to raise the question of Mr. Maher Arar, a Canadian citizen of Syrian origin. He was coming back to Canada, landed in the United States and disappeared.

There are all kinds of rumours. I will reject the rumours for the time being that CSIS or the RCMP were in cahoots with the United States security services. I do not want to attack my own institutions.

The fact remains that the Mr. Arar arrived in the United States on his way to Canada and was shipped to another country, without any consultation with Canadian authorities, and he ended up under a regime where people are not too fancy in their treatment of prisoners, if they think that they can extract information from them.

In order to have a full picture for a good debate, I would appreciate it if the Leader of the Government would add my request to the rest.

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for his question, but I think it is only appropriate to note that Senator Di Nino did indeed raise the case of Maher Arar in his opening comments. I responded in particular to the Kazemi case, but certainly he did put that question before us.

Senator Prud'homme: Good.

Senator Carstairs: Events have taken place with respect to the Arar case. The most recent information I have, as a result of September 9, is that Mr. Arar may appear before a Syrian civil court imminently. He was in meetings with the Canadian consul on August 14. He was pleased to have the visit and apparently thanked all concerned, including the Syrian authorities, for arranging it.

Mr. Arar apparently indicated that despite the fact that he was carrying a Canadian passport, he was deported by the United States to Syria. I think our questions must be directed to the United States. If he was carrying a Canadian passport, then why was he not deported to Canada?

The senator's second question relates to Senator Kinsella's earlier query as to what interest we have in this particular case. Syrian authorities have acknowledged that while we are interested in the case, they are fully consistent with international law in treating Mr. Arar, first and foremost, as a Syrian citizen because he has never forsaken his Syrian citizenship. That is why I raised this issue and my growing concerns about the problems of certain individuals.

I cannot make recommendations for committees to study specific issues, but I think the members of the Standing Senate Committee on Foreign Affairs might wish to look into this matter.

This issue is becoming a frequent concern for many Canadians who travel the world with two passports, sometimes using the one that they think will give them preferred advantage in one country and using another when they think it will give them a preferred advantage in another country. My concern is that they do not seem to know or understand — and perhaps they do, but I do not think so — the risks that they may encounter by using both passports. In some cases they are carrying both. In the case of Mr. Arar, however, my understanding is that he was carrying only a Canadian passport.

COMPLICATIONS OF DUAL CITIZENSHIP— USE OF PASSPORTS

Hon. A. Raynell Andreychuk: Honourable senators, I wish to follow up on that point. I believe it is something the Foreign Affairs Committee should study. Perhaps that suggestion could be conveyed to the committee chair.

I am more concerned about the fact that it is our obligation to tell our citizens what it means for them to go overseas. I believe we are doing a much better job of informing them about our arrangements and understandings with various countries. However, I wonder to what extent those protocols are up to date. Some people carry more than two passports.

There is a question of which passport should take effect.

• (1410)

Canada often uses the consular services of third parties such as Australia and Britain. In light of today's issues, with particular reference to terrorism, have we assured ourselves that those protocols are in line with our attitudes toward the balance between security and safety, and independence, freedom and human rights?

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for that question. It is a continuation of the other discussions we have been having. I can assure the honourable senator that I will raise her concern, as well as these others, with the Minister of Foreign Affairs.

VETERANS AFFAIRS

VETERANS INDEPENDENCE PROGRAM— ENTITLEMENT TO WIDOWS

Hon. Michael A. Meighen: Honourable senators, on Monday, the Minister of Veterans Affairs admitted that the department did not have the money to extend the federal government benefit to all veterans' widows. The media reported that approximately 23,000 widows of veterans will be denied benefits under the Veterans Independence Program. It was just this past May when these benefits, after a lengthy campaign by veterans'

organizations, were supposedly extended to become a lifetime entitlement for widows. Before then, as honourable senators are aware, widows were entitled to VIP benefits for only one year following the death of a spouse.

Now this government, in a fundamentally flawed and, some would say — and have said — heartless, cost-cutting exercise, has decided once and for all, that some widows will get the benefit and others will be excluded. The government hopes to save \$13 million, which will be taken right out of the hands of the widows of our veterans.

This government seems to have decided that our veterans will have to go to their graves knowing that the widows of their comrades in arms will not be looked after properly — yet another example of the disrespect with which issues relating to our military and our veterans are being handled.

My question to the Leader of the Government is simple. What kind of defence can she offer for such a callous and obviously discriminatory practice based simply on an arbitrary cut-off date?

Hon. Sharon Carstairs (Leader of the Government): As the honourable senator has indicated, an announcement was made that benefits that were being actively received would not be terminated at the one-year cut-off date, but would be continued. What will not be available, as I understand it, is benefits some people may require in the future for which they are not now covered. In that situation, the Department of Veterans Affairs will do all it can to help those people access services specifically provided within the community.

Senator Meighen: Honourable senators, there was a lengthy dispute over interest payments held in trust by the government for families of veterans, which was finally resolved after a great deal of negotiations. More recently, again after lengthy negotiations, the Minister of Defence, as a result of the publicity surrounding the Major Henwood case, decided that retroactivity could be dealt with on a case-by-case basis.

As I understand it, the reason these benefits are not extended to all widows is simply that it would be a retroactive step. I suggest that the Leader of the Government ask the Minister of National Defence for assistance in persuading her cabinet colleagues to reverse this ill-considered decision.

Senator Carstairs: Honourable senators, I think everyone in this chamber would agree that, in general, the principle of retroactivity is not a good one. The situation that was determined, which we dealt with with dispatch in this chamber this past June, dealt with a veteran who was receiving reduced benefits for no other good reason, it seemed to me, than his rank. This is a somewhat different situation. Services are available in the community and particular services are available to veterans through the Department of Veterans Affairs. It is not that these people will not be entitled to services. Many provinces in this country, including mine, which has been a leader in this field, as Senator Stratton knows well, provide the same kind of home care services to individuals within the community as those provided by Veterans Affairs, and veterans' spouses would be entitled to those services.

AGRICULTURE AND AGRI-FOOD

BOVINE SPONGIFORM ENCEPHALOPATHY— INFLUENCE OF JAPAN ON UNITED STATES TRADE RESTRICTIONS

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate and it deals with BSE. Now that the U.S. ban on Canadian beef has been reduced to a partial ban, we would like to have some assurance that the government is continuing to be vigilant on this issue. Could the Leader of the Government in the Senate please advise us, before the weekend, exactly what representations the government has made to Japan and other countries that are continuing full bans on the importation of Canadian beef?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I can indicate to the honourable senator that Japanese authorities have been here and we have gone step by step through all of the studies, all of the testing and all of the protocols that we have in place. We have also sent Canadian officials to Japan to go through all of those protocols.

Japan understands fully that Canada has an excellent system of monitoring BSE and that we will continue to have such an excellent system. They do not take Canadian beef, by the way. However, they have made a determination that they will not take American beef unless these live cattle restrictions remain between Canada and the United States.

Our problem lies in breaking down the barrier with the United States. If we can come to some agreement with them, which hopefully will come sooner rather than later, and some progress has, as he has indicated, already been made, we may well be able to solve this problem.

BOVINE SPONGIFORM ENCEPHALOPATHY— CRITICISMS BY NATIONAL CENTRE FOR FOREIGN ANIMAL DISEASE

Hon. Donald H. Oliver: There may be another problem as well, because certain revelations have surfaced that Canada has been slow to change its regulations for controlling BSE in spite of urgings of an international expert panel. According to Dr. Paul Kitching, Director of the National Centre for Foreign Animal Disease, the world is still waiting for Canada to show signs of increased surveillance. That is what he was reported to have said in the *Manitoba Cooperator* of September 18, 2003.

Could the Leader of the Government in the Senate give us her government's response to the criticism made by Dr. Kitching?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, we have been making significant progress. These things do not happen overnight. We accepted all the recommendations and we are moving forward on all of them.

HEALTH

CREATION OF NATIONAL PUBLIC HEALTH OFFICE

Hon. Terry Stratton: I have not had the opportunity to welcome the minister back. I hope that she had a good break and that she

spent some time in Manitoba. That remark is not intended to be a "smack," since I recognize that she is a minister and must have spent some of the summer recess in Ottawa.

My question goes back to the creation of a Canadian centre for disease control, about which I have asked before.

At a recent meeting of the provincial health ministers and their federal counterpart, Anne McLellan agreed to create a national infectious disease control centre. The agency, modelled after the U.S. Centers for Disease Control, will coordinate national responses to public health crises such as the severe acute respiratory syndrome outbreak last spring or the West Nile virus. The Canadian Medical Association has also called for the creation of a national public health officer to head up this new agency. The officer would have the power to invoke emergency measures without political and bureaucratic influence.

Could the Leader of the Government in the Senate give us an update on whether there have been talks with the provinces about appointing a national public health officer? If so, what is the status of those discussions?

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for his question as well as for his warm welcome back. Yes, I did spend a considerable amount of this summer in Manitoba, for which I was extremely grateful. It might be the fact that things are not as busy around here that allowed me to spend more time at home, and it was truly enjoyed.

• (1420)

The honourable senator may well know that the idea of a disease control laboratory was discussed at a meeting of health ministers last week. There seems to be a desire on the part of all parties to go forward with further discussions. The honourable senator and I clearly have great pride in our level 4 laboratory in Winnipeg and think this is the logical place for a further control laboratory to be located. However, I am sure there are other communities across the country that will want to bid on this very exciting new venture.

As to the honourable senator's question with respect to a national public health officer, my understanding is that the two proposals are linked together and that one will not happen without the other. The discussions are ongoing on that matter as well.

[Translation]

DELAYED ANSWER TO ORAL QUESTION

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table a response to an oral question to a question raised in the Senate on September 16, 2003 by Senator Gauthier, regarding the Federal Court decision in *Forum of Mayors of the Acadian Peninsula v. Canadian Food Inspection Agency*.

OFFICIAL LANGUAGES

FEDERAL COURT DECISION ON CASE BROUGHT BY
FORUM OF MAYORS OF ACADIAN PENINSULA

(Response to question raised by Hon. Jean-Robert Gauthier on September 16, 2003)

Justice Department counsels have obtained a copy of the judgment and are studying the reasons and gauging potential repercussions.

The Government still believes, however, that Part VII of the *Official Languages Act* is a solemn policy commitment by the Government of Canada to “enhanc[e] the vitality of the English and French linguistic minority communities in Canada and supporting and assisting their development; and fostering the full recognition and use of both English and French in Canadian society.”

Accordingly, the Action Plan for Official Languages announced on March 12, 2003, proposes an accountability and coordination framework to ensure that the official languages remain an everyday priority in designing and implementing public policy and government programs.

Article 17 of the *Official Languages Act* provides some key elements that will help federal institutions meet the objectives set by the government in the Action Plan.

Article 17: “Every federal institution, as part of its strategic planning, implementing its mandate and policy and program development process, will need to:

- raise employees’ awareness of the needs of minority official-language communities and the Government’s commitments under Part VII;
- determine whether its policies and programs have impacts on the promotion of linguistic duality and the development of minority communities, from the initial elaboration of policies through to their implementation, including devolution of services;
- consult affected publics as required, especially representatives of official language minority communities, in connection with the development or implementation of policies or programs;
- be able to describe its actions and demonstrate that it has considered the needs of minority communities;
- when it has been decided that impacts do exist, the institution will have to plan activities accordingly for the following year and in the longer term; present the expected outcomes, taking into account funding provisions, to the greatest extent possible; and provide for results assessment mechanisms.”

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, under Orders of the Day, I would like us to begin, under Government Business, with Item No. 2 under “Bills.” We can then resume the business of the Senate as set out in the Order Paper.

[English]

NATIONAL DEFENCE ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Bryden, seconded by the Honourable Senator Pearson, for the second reading of Bill C-35, to amend the National Defence Act (remuneration of military judges).

Hon. Norman K. Atkins: Honourable senators, I am pleased to rise and speak to Bill C-35, to amend the National Defence Act. These amendments will enable the government to approve retroactive pay raises for military judges as recommended by the independent Military Judges Compensation Commission.

Last June, Senator Bryden outlined how the remuneration of military judges is determined. He noted that the Military Judges Compensation Committee reviews remuneration of military judges every four years and makes recommendations to the Minister of National Defence as to the appropriate rates of pay. However, even if the government accepted the recommendations of the MJCC, they could not be implemented if retroactivity was involved. This bill will correct that anomaly by stating clearly the regulations that govern the conditions and rates of pay of military judges that allow them that retroactivity.

The second part of the bill clarifies the procedural and legal requirements regarding the taking of bodily samples — DNA samples. When the bill moves to committee, I would expect to hear from witnesses as to why this change is required.

The final amendments in the bill provide consistency between the English and French version of the National Defence Act. It is ironic that we are making corrections to the National Defence Act through an amendment, yet only last June, corrections to the English and French versions of Bill C-24 could be made by parchment. There seems to be very little consistency about the process.

As my honourable colleagues will know, the Constitution Act, 1867, stipulates that the salaries, allowances and pensions of Superior Court judges be set by Parliament. This ensures that judges are not dependent on the government for their financial security.

In 1998, the Court Martial Appeal Court in *Lauzon v. Rex* decided that the existing system of establishing the rates of pay of military judges was unconstitutional as it did not have an independent objective and a mechanism to give consideration to changes to military judges' rate of pay. In 1999, the Military Judges Compensation Commission was established by regulations to correct this deficiency and provide a process similar to that used to establish pay rates for other judges under the Judges Act.

Canada has three military judges, including the Chief Military Judge. Unlike all other units of the Canadian military, the Office of the Chief Military Judge is not part of the chain of command, enabling military judges a high degree of independence in relation to other members of the Canadian Forces.

Military judges preside over courts martial and perform other judicial duties under the National Defence Act and the Queen's Regulations and Order for the Canadian Forces. When will this government take the time to deal fairly with other members of the Canadian Forces?

Just last week, I read a media report, I believe in *The Hill Times*, that our Defence Minister said, "I don't think now is the time to make an additional big pitch for additional long-term base funding." Is there ever a good time to make that kind of pitch?

Last February, the budget allocated \$800 million in funding to national defence and asked the defence department to come up with \$200 million in savings. It is astounding that they would be asked to come up with \$200 million in savings at a time when they desperately need to upgrade equipment and increase personnel.

According to the Leader of the Government in the Senate, a portion of the \$800-million allocation in the February budget will be designated for the troops deployed in Afghanistan. All of this further takes away from the amount of money available for increasing the number of service personnel and the upgrading of equipment. For this government, the defence department is the one that just keeps on giving.

Honourable senators, it is time that our military be funded adequately. I am shocked that the minister responsible for representing Canada's Armed Forces in cabinet is not willing to go to the table to argue for more long-term based funding.

Our own Standing Senate Committee on National Security and Defence called for defence budgets to increase to approximately \$24 billion by 2010. We are at a limit in our peacekeeping efforts. We need to increase our personnel and renew our equipment. We need new helicopters. We need to improve our fleet of Hercules aircraft so more planes can be operational. We need more money to fix our submarines. We need to be able to hire more technicians and mechanics and ensure that they have the spare parts they need.

Our military judges are an integral part of the administration of justice in the Canadian Forces, and it is important that they are paid as fairly and objectively, as are other members of the judiciary in Canada. I hope that all honourable senators will support these changes.

Furthermore, honourable senators, we need to start making up for the decade of neglect of our Armed Forces. I would hope that all members of the chamber would push for adequate funding of our proud military.

The Hon. the Speaker: As no honourable senator is rising to speak, I would ask honourable senators if they are ready for the question in this matter.

Senator Robichaud: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read the second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Robichaud, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

• (1430)

COPYRIGHT ACT

BILL TO AMEND—POINT OF ORDER—
SPEAKER'S RULING—SECOND READING—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Gill, for the second reading of Bill S-20, to amend the Copyright Act.—(*Speaker's Ruling*).

The Hon. the Speaker: Honourable senators, before proceeding with the next item, I should like to deal with a question of order.

[*Translation*]

Honourable senators, on Wednesday, September 17, Senator Kinsella raised a point of order during second reading debate on Bill S-20 seeking to amend the Copyright Act. He asked Senator Day, the sponsor of the bill, whether the bill required a Royal Recommendation. By way of reply, Senator Day stated that he had not considered the matter. He did suggest, however, that the issue could be assessed during committee study of Bill S-20.

[*English*]

A short time later, Senator Corbin intervened and explained that, following his reading of the bill, there was nothing entailing an appropriation that would trigger the need for a Royal Recommendation. He also asked whether the need for a Royal Recommendation was to become an automatic question that would be put to the Speaker any time a Senate bill was introduced.

[Translation]

After some additional comments, I agreed to consider the point of order and bring back a ruling as soon as possible after giving myself time to read the bill.

[English]

In responding to the point of order, I as Speaker was obliged to review the text of the bill in order to identify, if possible, any clause authorizing a new appropriation of money from the Consolidated Revenue Fund. The question is important because bills that have a Royal Recommendation are introduced in the House of Commons, not the Senate. In any event, the task of reviewing the bill was not particularly arduous since the bill is just six short clauses. Bill S-20 deals with copyright and the application of certain provisions dealing with the term of a copyright in certain circumstances.

While it is true that two government departments are involved, this, in itself, does not mean that a Royal Recommendation is needed. Based on my assessment of Bill S-20, I have determined that no Royal Recommendation is required.

As to the suggestion posed by Senator Corbin, whether it will be an automatic procedure to ask the Speaker to review the content of legislation to determine the need for a Royal Recommendation, I am in the Senate's hands. At the moment, no such procedure exists. I am unclear about its utility. However, if the Senate were to institute a practice on this, as Speaker I would be bound to follow it.

[Translation]

As it is, there is no point of order and debate on second reading can proceed.

[English]

Senator Beaudoin has asked for the floor.

Hon. Gérald-A. Beaudoin: Honourable senators, I intend to speak on this next week. I apologize that I am not prepared to speak this week.

On motion of Senator Beaudoin, debate adjourned.

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

COMMITTEE AUTHORIZED TO MEET DURING ADJOURNMENT OF THE SENATE— ORDER WITHDRAWN

On the Order:

Resuming debate on the motion of the Honourable Senator Banks, seconded by the Honourable Senator Moore:

That the Standing Senate Committee on Energy, the Environment and Natural Resources be empowered, in accordance with rule 95(3)(a), to sit during the traditional

summer adjournment of 2003, even though the Senate may then be adjourned for a period exceeding one week, until such time as the Senate is ordered to return.—(*Honourable Senator Bacon*).

Hon. Tommy Banks: Honourable senators, since events have overtaken this motion, I seek permission of honourable senators present to withdraw it and to remove it from the Order Paper.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Order withdrawn.

UNIVERSITY RESEARCH FUNDING FROM FEDERAL SOURCES

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Moore calling the attention of the Senate to the matter of research funding in Canadian universities from federal sources.—(*Honourable Senator Morin*).

Hon. Yves Morin: Honourable senators, at the outset I would congratulate my Honourable Senator Wilfred Moore for the excellent speech he gave before our summer recess. In his very thoughtful and well-researched remarks, he addressed, in depth, the various issues pertaining to the role of the federal government in university research, especially in Atlantic Canada.

There is no doubt that support for academic research has been and continues to be one of the chief priorities of the present government. It has added more than \$1 billion to the annual budget of academic research in this country over the past five years.

This support is producing results. In 2002, institutions of higher education were responsible for fully one-third of Canadian R&D, 33.5 per cent up, from 26.5 per cent in 1997. This is a higher proportion than found in any other OECD country. This striking ratio will certainly grow as a result of the 2003 budget which increased funding for Canada's university research by another \$450 million.

This budget, like each one that has preceded it since 1997, demonstrates the extent to which Canada has embraced the new knowledge-based economy. We recognize that knowledge is the source of future wealth creation that is necessary to sustain and enhance our standard of living and quality of life. We recognize that our knowledge-based economy is rooted in the discovery and the development of new ideas and their successful commercialization.

No government has done so much for university-based research in such a short time. This agenda of academic innovation will remain one of the outstanding legacies of this government.

[The Hon. the Speaker]

However, Senator Moore has raised important points concerning the role the federal government plays in university research in Atlantic Canada and the disparity that exists between Atlantic Canada and other areas of the country when it comes to research funding. It cannot be denied that, while Atlantic Canada has 7.6 per cent of the Canadian population, it does not currently attract 7.6 per cent of federal research funding.

• (1440)

Part of the reason lies in the fact that an increasing and significant portion of federal research funding has been devoted to the health sciences. This type of funding tends to concentrate in the large teaching hospitals and major health research centres in Canada's bigger cities such as Toronto, Montreal, Vancouver and, to a lesser degree, in smaller schools such as the University of Saskatoon, Laval University in Quebec City or Memorial University in St. John's.

There are solutions to these disparities, but they do not lie in changing the way we allocate our research funding so that excellence is no longer the prime criterion or so that we no longer abide by international standards of peer review. I would be surprised to find a researcher in Atlantic Canada or anywhere in Canada who would disagree with this fundamental point.

Nonetheless, there are opportunities for the Atlantic provinces. Smaller universities tend to fare better in areas such as the social sciences and humanities. Given that 60 per cent of the scholarships in the new Graduate Scholarships Program announced in the 2003 budget will be awarded to the social sciences and humanities, we can expect that they will have a disproportionate impact on the smaller Atlantic universities.

Other new programs, programs that are independent of the granting councils, are also redressing historic imbalances. For instance, the National Research Council has invested in excellent research centres located on Atlantic campuses, such as the Institute for Marine Dynamics, the Institute for Information Technology and the Biodiagnostic Institute.

The Atlantic Innovation Fund is another new initiative of the federal government that will address some of Senator Moore's concerns, while accelerating the development of knowledge-based organizations such as universities and research centres in Atlantic Canada. This \$300 million, five-year program will strengthen the region's innovation capacity by supporting research, development and commercialization partnerships among the region's research institutions.

Programs such as these are evidence of the federal government's commitment to redressing the funding disparity against which the Atlantic universities have to struggle and to providing Atlantic researchers with the support they need to excel.

This discussion also raises another point to which Senator Moore referred, and that is: Should all our Canadian universities be equally active in academic research?

We have limited funds to support research in this country. The average research grant in Canada is one-third the size of its American counterpart. When we spread research money around to all our institutions, what happens to our world-renowned

research centres? Canada, and especially Atlantic Canada, is fortunate in having several good universities that have made teaching a priority. Acadia, Mount Allison and St. Francis Xavier have long gained recognition for their emphasis on undergraduate teaching.

In fact, Nova Scotia is in a unique position. With its 11 universities and 13 community college campuses, it has more post-secondary institutions per capita than anywhere else in Canada and probably elsewhere in the world. As this province is responsible for a significant proportion of Canada's post-secondary training, there is little doubt in my mind that federal transfer in post-secondary education should follow the students and not be given strictly on a per capita basis. On this point, I fully agree with my honourable friend Senator Moore.

We might in this respect follow the example of Finland, a sparsely populated country that has increased its number of university students by 40 per cent in the last decade. This has resulted in remarkable economic growth.

This exceptional success is the consequence of the Higher Education Development Act passed by the Finnish Parliament some 20 years ago. The act guaranteed the steady growth of resources for post-secondary education, increased the number of inexpensive university seats and ensured the international competitiveness of the system.

In particular, by increasing the number of universities to more than 20, and ensuring they are in all regions of Finland, including, for example, the region of Lapland, this act has been instrumental in correcting the problem of regional disparity in access to post-secondary education.

Today, having supported our universities through the provision of research funding, our federal government, in partnership with the provinces, should turn its attention to supporting post-secondary education along the lines of the program carried out so successfully by Finland. Such a move would complement its successes to date, while building new successes in all parts of Canada. It would underscore the true responsibility of universities to conduct research and to teach, and it would recognize the relative strengths that lie in different parts of the country.

[Translation]

I would like speak next about something I hold dear, the Université de Moncton. This university occupies a unique niche in Canada. It is not simply the only large French-language institution outside Quebec, but it has been the primary instrument of the Acadians in meeting the overall challenge of development.

For these two reasons, the Université de Moncton deserves special assistance from the federal government. It serves the vast francophone diaspora throughout the country, and is thus becoming the outstanding symbol of the linguistic and cultural vitality of francophones living outside Quebec.

On this 40th anniversary of the founding of the Université de Moncton, and at this crucial time in the history of the Acadian people, it is essential that the Canadian government provide special support to this establishment as it embarks on a period of accelerating growth in order to continue to play its essential role, not only for its target clientele, the Acadian community, but also for all of Canada.

Honourable senators, last year in this chamber, I spoke out for the creation of a faculty of medicine at the Université de Moncton. The need is even greater today, in order to respond to the health needs of not only the Acadian community, but also all francophones outside Quebec.

The same is true in other sectors of the university, in the transmission and the advancement of knowledge. It is essential that the Government of Canada support this unique institution during this critical phase of its growth.

There you have, honourable senators, the essence of my remarks on the important issue raised by Senator Moore. I thank him for having initiated a debate of such importance to our country, and I thank you for your kind attention.

On motion of Senator Stratton, for Senator Kinsella, debate adjourned.

TRANSPORT AND COMMUNICATIONS

MOTION TO AUTHORIZE COMMITTEE TO MEET DURING ADJOURNMENT OF THE SENATE— ORDER WITHDRAWN

On the Order:

Resuming debate on the motion, as modified, of the Honourable Senator Fraser, seconded by the Honourable Senator Morin:

That the Standing Senate Committee on Transport and Communications be empowered, in accordance with rule 95(3)(a), to sit as of September 2, 2003, even though the Senate may then be adjourned for a period exceeding one week, until such time as the Senate is ordered to return.—(*Honourable Senator Kinsella*).

Hon. Joan Fraser: Honourable senators, since it is obvious that this motion serves no further purpose, I move that it be withdrawn from the Order Paper.

Order withdrawn.

• (1450)

[English]

NEW CONSTITUTION FOR IRAQ

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Beaudoin calling the attention of the Senate to a possible new constitution for Iraq.—(*Honourable Senator Stratton*).

[Senator Morin]

Hon. Terry Stratton: Honourable senators, I have deliberately not spoken to this issue because I have tried to wrestle with whether I would speak to it, but I feel that it is a situation that should be dealt with, and my experiences in Iraq over the last three years have shown I ought to speak to it if for no other reason than to explain what I think some of the people over there believe. I should like, though, to take this portion of time out of my 15 minutes and rewind the clock if I may.

On motion of Senator Stratton, debate adjourned.

[Translation]

NATIONAL SECURITY AND DEFENCE

COMMITTEE AUTHORIZED TO STUDY VETERANS' SERVICES AND BENEFITS COMMEMORATIVE ACTIVITIES AND CHARTER

On the Order:

Resuming debate on the motion of the Honourable Senator Meighen, seconded by the Honourable Senator Robertson:

That the Senate Committee on National Security and Defence be authorized to undertake a study on:

(a) the services and benefits provided to veterans of war and peacekeeping missions in recognition of their services to Canada, in particular examining:

- access to priority beds for veterans in community hospitals;
- availability of alternative housing and enhanced home care;
- standardization of services throughout Canada;
- monitoring and accreditation of long term care facilities;

(b) the commemorative activities undertaken by the Department of Veterans Affairs to keep alive for all Canadians the memory of the veterans achievements and sacrifices; and

(c) the need for an updated Veterans Charter to outline the right to preventative care, family support, treatment and re-establishment benefits;

That the Committee report no later than June 30, 2004.—(*Honourable Senator Robichaud, P.C.*).

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, when this motion was introduced yesterday, I asked for debate to be adjourned to the next sitting of the Senate in order to verify certain information, and to ask the House certain questions as follows. What will be the scope of this study? Will the committee travel? Could the study incur special and significant expenditures?

The honourable senators will need this information in order to make an informed decision.

In the absence of the Honourable Senator Meighen, could the Honourable Senator Day, who is also a member of the subcommittee, provide us with this information?

[English]

Hon. Joseph A. Day: Honourable senators, this mandate that is being sought for the Standing Senate Committee on National Security and Defence is, in effect, the mandate for the subcommittee of that standing committee, the Subcommittee on Veterans Affairs.

Earlier today, Senator Meighen spoke of the successes of that subcommittee with respect to Major Bruce Henwood related to compensation and with respect to the Valiant memorials. The final mandate of that subcommittee expired in June, as we filed our report on post-traumatic stress disorder, which will become an important literary document.

The committee is now seeking a new mandate to deal with issues related to veterans. Item No. 142 on our order paper is the mandate that the subcommittee is seeking.

Under its previous mandate, it was the intention of the subcommittee to visit the veterans' hospital in Toronto, but the funds were not available. I expect that the subcommittee will undertake that visit if this mandate is approved. Our chairman, Senator Meighen, has informed committee members that no significant or long-term travel is anticipated for the committee. Although the Steering Committee has not come up with a precise budget to take to the Standing Committee on Internal Economy, Budgets and Administration, the estimate is somewhere around \$25,000 to \$35,000 to carry out this mandate.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

[Translation]

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, with leave of the Senate, and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, September 23, 2003, at two o'clock in the afternoon.

The Hon. the Speaker *pro tempore*: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, September 23, 2003, at 2 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(2nd Session, 37th Parliament)
Thursday, September 18, 2003

GOVERNMENT BILLS
(SENATE)

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-2	An Act to implement an agreement, conventions and protocols concluded between Canada and Kuwait, Mongolia, the United Arab Emirates, Moldova, Norway, Belgium and Italy for the avoidance of double taxation and the prevention of fiscal evasion and to amend the enacted text of three tax treaties.	02/10/02	02/10/23	Banking, Trade and Commerce	02/10/24	0	02/10/30	02/12/12	24/02
S-13	An Act to amend the Statistics Act	03/02/05	03/02/11	Social Affairs, Science and Technology	03/04/29	0	03/05/27		

GOVERNMENT BILLS
(HOUSE OF COMMONS)

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-2	An Act to establish a process for assessing the environmental and socio-economic effects of certain activities in Yukon	03/03/19	03/04/03	Energy, the Environment and Natural Resources	03/05/01	0	03/05/06	03/05/13	7/03
C-3	An Act to amend the Canada Pension Plan and the Canada Pension Plan Investment Board Act	03/02/26	03/03/25	Banking, Trade and Commerce	03/03/27	0	03/04/01	03/04/03	5/03
C-4	An Act to amend the Nuclear Safety and Control Act	02/12/10	02/12/12	Energy, the Environment and Natural Resources	03/02/06	0	03/02/12	03/02/13	1/03
C-5	An Act respecting the protection of wildlife species at risk in Canada	02/10/10	02/10/22	Energy, the Environment and Natural Resources	02/12/04	0	02/12/12	02/12/12	29/02
C-6	An Act to establish the Canadian Centre for the Independent Resolution of First Nations Specific Claims to provide for the filing, negotiation and resolution of specific claims and to make related amendments to other Acts	03/03/19	03/04/02	Aboriginal Peoples	03/06/12	5			
C-8	An Act to protect human health and safety and the environment by regulating products used for the control of pests	02/10/10	02/10/23	Social Affairs, Science and Technology	02/12/10	0	02/12/12	02/12/12	28/02
C-9	An Act to amend the Canadian Environmental Assessment Act	03/05/06	03/05/13	Energy, the Environment and Natural Resources	03/06/04	0	03/06/05	03/06/11	9/03

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-10	An Act to amend the Criminal Code (cruelty to animals and firearms) and the Firearms Act	02/10/10	02/11/20	Legal and Constitutional Affairs	02/11/28	Divided Message from Commons concurring with division 03/05/07			
C-10A	An Act to amend the Criminal Code (firearms) and the Firearms Act	-	-	Legal and Constitutional Affairs	02/11/28	0	02/12/03	03/05/13	8/03
C-10B	An Act to amend the Criminal Code (cruelty to animals)	-	-	Legal and Constitutional Affairs	03/05/15	5	03/05/29 Message from Commons-agree with two amendments, disagree with two, and amend one 03/06/09 Referred to committee 03/06/11 Reported 03/06/12 Report adopted (insist on one, replace one, amend one) 03/06/19		
C-11	An Act to amend the Copyright Act	02/10/10	02/10/30	Social Affairs, Science and Technology	02/12/05	0	02/12/09	02/12/12	26/02
C-12	An Act to promote physical activity and sport	02/10/10	02/10/23	Social Affairs, Science and Technology	02/11/21	0 + 1 at 3 rd 02/12/04 2 at 3 rd 03/02/04	03/02/04	03/03/19	2/03
C-14	An Act providing for controls on the export, import or transit across Canada of rough diamonds and for a certification scheme for their export in order to meet Canada's obligations under the Kimberley Process	02/11/19	02/11/26	Energy, the Environment and Natural Resources	02/12/04	0	02/12/05	02/12/12	25/02
C-15	An Act to amend the Lobbyists Registration Act	03/03/19	03/04/03	Rules, Procedures and the Rights of Parliament	03/05/14	1	03/05/28	03/06/11	10/03
							Message from Commons-agree with amendment 03/06/09		

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2003	02/12/05	02/12/10	—	—	—	02/12/11	02/12/12	27/02
C-24	An Act to amend the Canada Elections Act and the Income Tax Act (political financing)	03/06/11	03/06/16	Legal and Constitutional Affairs	03/06/19	0	03/06/19	03/06/19	19/03
C-25	An Act to modernize employment and labour relations in the public service and to amend the Financial Administration Act and the Canadian Centre for Management Development Act and to make consequential amendments to other Acts	03/06/03	03/06/13	National Finance	03/09/18	0			
C-28	An Act to implement certain provisions of the budget tabled in Parliament on February 18, 2003	03/05/27	03/06/04	National Finance	03/06/12	0	03/06/19	03/06/19	15/03
C-29	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2003	03/03/25	03/03/26	—	—	—	03/03/27	03/03/27	3/03
C-30	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2004	03/03/25	03/03/26	—	—	—	03/03/27	03/03/27	4/03
C-31	An Act to amend the Pension Act and the Royal Canadian Mounted Police Superannuation Act	03/06/03	03/06/11	National Security and Defence	03/06/16	0	03/06/17	03/06/19	12/03
C-35	An Act to amend the National Defence Act (remuneration of military judges)	03/06/13	03/09/18	Legal and Constitutional Affairs					
C-39	An Act to amend the Members of Parliament Retiring Allowances Act and the Parliament of Canada Act	03/06/03	03/06/11	Legal and Constitutional Affairs	03/06/19	0	03/06/19	03/06/19	16/03
C-42	An Act respecting the protection of the Antarctic Environment	03/06/13	03/09/17	Energy, the Environment and Natural Resources	03/09/18	0			
C-44	An Act to compensate military members injured during service	03/06/13	03/06/13	National Security and Defence	03/06/16	0	03/06/18	03/06/19	14/03
C-47	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2004	03/06/13	03/06/17	—	—	—	03/06/18	03/06/19	13/03

COMMONS PUBLIC BILLS

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-205	An Act to amend the Statutory Instruments Act (disallowance procedure for regulations)	03/06/16	03/06/19	-	-	-	03/06/19	03/06/19	18/03
C-227	An Act respecting a national day of remembrance of the Battle of Vimy Ridge	03/02/25	03/03/26	National Security and Defence	03/04/02	0	03/04/03	03/04/03	6/03
C-249	An Act to amend the Competition Act	03/05/13	03/09/17	Banking, Trade and Commerce					
C-250	An Act to amend the Criminal Code (hate propaganda)	03/09/18							
C-300	An Act to change the names of certain electoral districts	02/11/19	03/06/03	Legal and Constitutional Affairs					
C-411	An Act to establish Merchant Navy Veterans Day	03/06/12	03/06/17	National Security and Defence	03/06/18	0	03/06/19	03/06/19	17/03

SENATE PUBLIC BILLS

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-3	An Act to amend the National Anthem Act to include all Canadians (Sen. Poy)	02/10/02	03/06/10	Social Affairs, Science and Technology					
S-4	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	02/10/02							
S-5	An Act respecting a National Acadian Day (Sen. Comeau)	02/10/02	02/10/08	Legal and Constitutional Affairs	03/06/03	2	03/06/05	03/06/19	11/03
S-6	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	02/10/03							
S-7	An Act to protect heritage lighthouses (Sen. Forrestall)	02/10/08	03/02/25	Social Affairs, Science and Technology	03/06/19	0			
S-8	An Act to amend the Broadcasting Act (Sen. Kinsella)	02/10/09	02/10/24	Transport and Communications	03/03/20	0	03/04/02		
S-9	An Act to honour Louis Riel and the Metis People (Sen. Chalfoux)	02/10/23	03/05/06	Legal and Constitutional Affairs					
S-10	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	02/10/31	03/02/25	Energy, the Environment and Natural Resources	03/09/18	0			
S-11	An Act to amend the Official Languages Act (promotion of English and French) (Sen. Gauthier)	02/12/10	03/05/07	Official Languages					
S-12	An Act to repeal legislation that has not been brought into force within ten years of receiving royal assent (Sen. Banks)	02/12/11	03/02/27	Legal and Constitutional Affairs					

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-14	An Act to amend the National Anthem Act to reflect the linguistic duality of Canada (Sen. Kinsella)	03/02/11	03/06/17	Official Languages					
S-15	An Act to remove certain doubts regarding the meaning of marriage (Sen. Cools)	03/02/13	Dropped from Order Paper pursuant to Rule 27(3) 03/06/05						
S-16	An Act to amend the Constitution Act, 1867 and the Parliament of Canada Act (Speakership of the Senate) (Sen. Oliver)	03/03/18							
S-17	An Act respecting the Canadian International Development Agency, to provide in particular for its continuation, governance, administration and accountability (Sen. Bolduc)	03/03/25	03/06/19	National Finance					
S-18	An Act to amend the Criminal Code (lottery schemes) (Sen. Lapointe)	03/04/02							
S-20	An Act to amend the Copyright Act (Sen. Day)	03/05/15							
S-22	An Act respecting America Day (Sen. Grafstein)	03/09/16							
S-23	An Act to prevent unsolicited messages on the Internet (Sen. Oliver)	03/09/17							

PRIVATE BILLS

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-19	An Act respecting Scouts Canada (Sen. Di Nino)	03/05/14	03/06/09	Legal and Constitutional Affairs					
S-21	An Act to amalgamate the Canadian Association of Insurance and Financial Advisors and The Canadian Association of Financial Planners under the name The Financial Advisors Association of Canada (Sen. Kirby)	03/06/03	03/06/09	Banking, Trade and Commerce					

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